NOVA SCOTIA
DEPARTMENT OF JUSTICE
VICTIMS' SERVICES DIVISION

Child Victims and the Criminal Justice System

Child Victim Witness Program
(March, 1993 – June, 1999)

Overview Document

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"A hundred years from now it will not matter
what my bank account was,
the sort of house I lived in, or the kind of car I drove....
But the world may be different because I was important
in the life of a child"

On a card received from a client,
Victims' Services Regional Office, New Glasgow

102-00883/

EXECUTIVE SUMMARY

The following document provides an overview of the complete report, *Child Victims and the Criminal Justice System; Study Report* which may be obtained on the Nova Scotia Department of Justice web site at www.gov.ns.ca/just/.

This research on the experience of child victims in the criminal justice system in Nova Scotia has contributed to a body of research both in Canada and internationally that has examined ways to minimize the trauma to children that is associated with testifying about their own victimization.

There is valid reason to continue to examine the experience of child victims and the services currently available to them within the criminal justice system. Research has revealed ways to improve children's experience so they can provide accurate evidence. At the same time there are continuing calls for a consideration of "the best interests of the child" which may conflict with the prosecution of the case. For example, one of the most difficult decisions from a Crown's perspective is often whether to call a youthful witness at all, due to their level of anxiety or reluctance to testify (*Viva Voce*, Summer, 2000, p. 4).

The means of examining children's experience in the criminal justice system in Nova Scotia was to look at data compiled by the Child Victim Witness Program (CVWP) since its inception in 1994, with specific focus on those cases where children testified before the courts.

Objectives of the CVWP are to increase the child's knowledge about court procedures and the roles of key players, address the child's fears and reduce the anxiety associated with giving evidence, provide specific assistance in building communication skills with a particular focus on the need to be acquainted with the kinds of questions associated with cross-examination, and offer emotional support to the child and family.

The research examined demographics for the total of 1,682 child victim cases[1] referred to the Victims' Services Division from March 1, 1993[2] to June 30, 1999, services provided and court process on 453 cases closed between April 1, 1998 and June 30, 1999, and information obtained from interviews with parents as well as Victims' Services Support Workers who had provided a variety of support services to child victims during the period under study.

Results echoed earlier research studies in many ways.

Over two-thirds of the total sample involved female children. Where information was available, 81% of children knew the accused either as a family member, a trusted adult, or a

[1] The CVWP has a mandate to serve children who are either direct victims of a crime or witnesses to another person's victimization. A total of 2,050 cases were referred. This study is limited to those 84% of cases where children were direct victims.

[2] The study includes 62 cases that were opened prior to the establishment of the CVWP, and were transferred to the program for ongoing service.

peer. Girls were nearly twice as likely as boys to be victims of sexual assaults, while boys were much more likely than girls to be victims of physical assaults.

Adolescents have consistently formed the largest group of service users; just over half of children were between the ages of 12-15 years of age at the time of intake. There is a continuing challenge to adequately serve older adolescents, as the research literature and available resources focus particularly on the needs and vulnerabilities of young children.

The following findings are related to the 453 cases closed between April 1, 1998 and June 30, 1999. In 251 cases (60% of cases cleared by charge) children received court preparation. From information available on these 251 cases:

- the average time from date of arraignment to preliminary or trial was 8.7 months; cases remained in the criminal justice system, on average for 9.3 months from arraignment date to final disposition;
- while each of the children lived with mounting anxiety over a lengthy period of time at the prospect of testifying, just over half actually testified;
- just over half of cases resulted in a finding of guilt, either through guilty plea or conviction; nearly one-quarter of cases were either stayed, withdrawn, or dismissed;
- on average, those cases that were stayed, withdrawn or dismissed took 10.9 months to reach their final determination;
- convictions occurred in just over half of cases where a verdict was obtained at trial;
- 42% of all guilty pleas were entered after the child had been prepared to testify; in some of these cases the guilty plea was entered on the day of trial;
- probation was the most common disposition, ordered in 80% of cases; a term of custody was handed down in 25% of cases;
- application was made to the Criminal Injuries Compensation Program in only 30% of cases where children received court preparation.

Interviews with seven Support Workers who provided service to children in the majority of cases during the time period, and with a limited sample of 19 parents, provided qualitative information on children's experience prior to, and on the day of trial. Most children met with the Support Worker at least three times, and nearly half met with the Crown more than once before going to court. It was further determined that:

- there are areas specifically related to the CVWP that require further improvement: curriculum resources, Support Worker training, and follow-up services;

- there are only four courthouses in the province where separate, child-appropriate waiting areas are available as they are only provided where Victims' Services offices are located,

- children are asked to be at the courthouse for 9:30 am although other items on the court docket are often dealt with prior to hearing the case in which the child is to testify, thus children must often wait to testify for lengthy periods at the courthouse before being called to testify;

- many police, Crown attorneys, and judges are aware of, and sensitive to the difficulties children experience; defence lawyers are viewed as much less sensitive;

- the currently required competency hearing is reported as awkward and confusing for children;

- testimonial aids are seldom used in Nova Scotia; children's greatest fear of having to face the accused in the courtroom is thus often realized.

Parents and Support Workers offered clear suggestions for changes to increase children's comfort and lessen their trauma while participating in the adult environment of criminal court. To best serve the administration of justice, these, and other considerations emerging from the study were considered in the context of examining the conditions under which children may be expected to provide the most accurate testimony.

The report advances several recommendations and suggests implementation by a committee representing the Department of Justice, the Public Prosecution Service, and child welfare agencies. The report concludes that it is the responsibility of the criminal justice system to continue to grapple with the "twin, but potentially opposed aims" (Wachtel, 1997, p. xiii) of supporting child witnesses and ensuring the right of the accused to a fair hearing.

Context

The Child Victim Witness Program (CVWP) is one of the core programs offered through the four regional offices of the Victims' Services Division in Nova Scotia. As well as providing general information and support to child victims of crime and their supportive adults, the program provides a specialized, non-evidentiary court preparation curriculum to prepare and support child victims or child witnesses who testify in criminal court proceedings.

The overall objectives of the program, which was launched as a pilot (January, 1994 - March, 1996) are to:

- increase the child's knowledge about court proceedings and roles of the key players and to assist the child's understanding of how the court process unfolds;
- address the child's fears and reduce the anxiety associated with giving evidence;
- provide specific assistance in building communication skills with a particular focus on the need to be acquainted with the kinds of questions associated with cross-examination;
- offer emotional support to the child victim/witness and family.

Several modifications were made at the conclusion of the pilot program in March, 1996, and in response to the recommendations of an independent evaluation conducted in the same year. The program, now fully integrated as a core service of the regional Victims' Services offices, serves children province-wide.

The Court Preparation Curriculum

Services include:

a) Information about the criminal justice system
b) Assistance with application to the Criminal Injuries Compensation Program (CIC)[3]
c) Support to parent/legal guardian/supportive adult
d) Referrals to other services in the community
e) Liaison with the Crown attorney
f) Witness preparation
g) Assistance with filing of Victim Impact Statements

Children referred to the program are either direct victims or witnesses of a crime and are under the age of 16 years, to reflect the age of a child as defined by the Children and Family Services

[3] Effective June 8, 2000, this program provides financial assistance for counselling only, and has changed in name to the Criminal Injuries Counselling Program.

Act[4]. Service is provided by fee-for-service Support Workers.

The first component of court preparation is implemented approximately six (6) weeks prior to the actual date of testimony, and consists of an information and rapport-building session in the child's home, in the company of the parent/supportive adult. The content tools have been adapted from those originally used in the pilot, to adjust to the average age of children found to participate in the program. The second session is conducted in the courtroom. The session may be held in consultation with the Crown attorney, and involves a courtroom tour and a role play giving the child the opportunity to listen to complex questions about a neutral topic such as a day at school or weekend activity. Liaison with the Crown attorney is arranged and a meeting is scheduled. An additional booster session may be offered when a child is experiencing significant stress at the prospect of giving testimony. Court accompaniment is offered to each child. Following the child's actual testimony, a debriefing session occurs within forty-eight (48) hours, either by telephone or a face-to-face interview. Additionally, the child may be provided assistance in making application to the Criminal Injuries Compensation Program or in preparing a Victim Impact Statement at the conclusion of the trial and prior to sentencing. The final component of the program is a closure session to identify and address any outstanding issues and unmet needs.

Research Question

The current study continues the preliminary examination of cases begun during the pilot phase of the program. It was noted then that the increased numbers of child complainants in Nova Scotia suggests the Criminal Code amendments intended to facilitate children's testimony have been effective. The associated risk inherent is that without an ongoing assessment of current practice, children may become revictimized in an adult court process. In keeping with the mandate of the Victims' Services Division, an anticipated outcome of the current study is to propose recommendations for policy formulation/revision related to children in the justice system.

The research design permitted an examination of the following general research questions:

1. What does the current literature contribute to an understanding of the experience of children in the justice system?

2. What can we know of the experience of children who have participated in the Child Victim Witness Program in Nova Scotia through analysis of data collected by the program?

3. What is the status of other specialized child victim witness service programs in Canada?

4. What are the needs of child victims in relation to the services available to them within the criminal justice system?

[4]During the pilot program children under the age of 18 were eligible to participate in the program. The age of eligibility was reduced to under 16 during the 97/98 fiscal year.

A complete report that addresses each of the research questions may be found on the Nova Scotia Department of Justice web site. This report focuses specifically on the second and fourth research questions. The pilot had told us that the program needed to be adjusted to reflect the age of the primary service group, which was well above the resource materials then available. It is clear that there is a continuous need to monitor key trends in relation to client profile, to contribute to a determination if services available to child victims within the criminal justice system are in fact meeting their needs. It is expected that the analysis of findings will be used to impact program content and data collection, case management within the criminal justice system, and future policy initiatives in the province.

Methodology

The study was structured in four components:

a) information on demographics for the total of 2,050 files opened during the period March, 1993 - June 30, 1999;[5]
b) detailed information on services provided and court process on a data subset of 453 cases closed between April 1, 1998 - June 30, 1999, where children were alleged victims of an offence;
c) information obtained from 19 parent interviews, from a random sample of 60% of parents/guardians of the 130 alleged child victims who testified on files closed between April 1, 1998 and June 30, 1999;
d) information obtained from interviews with a sample of seven Support Workers who had provided the majority of service to clients during the time period under study.

The usual ethical precautions to ensure client confidentiality and informed consent were employed during the study.

Limitations of the Study

The data is only reflective of those cases involving alleged child victims of crime who had been referred to the Victims' Services Division during the period March, 1993 to June 30, 1999 and received services of the CVWP. The numbers of children who could have been referred but were not is unknown. The sample is therefore not representative of the complete population of children in Nova Scotia who were victims of a crime within that time period. While it is recognized children who witness crime but are themselves not the primary victims may be equally traumatized by the experience, with the exception of noting cases by region, the study was limited to children who were direct victims.

It should be noted that data was analyzed by categorizing by age and gender, sexual and physical offences, and relationship of the child to the accused. Further examination is necessary

[5]Note: This study includes 62 cases that were opened prior to the establishment of the CVWP, and were transferred to the program for ongoing service.

by *Criminal Code* offence to determine the relevance of these findings.

Due to the extremely small sample size and the high refusal rate, care should be made in making generalizations based on parent interviews conducted. It cannot be assured that the sample is representative of the total group of child victims who testified during this time period. It should be recognized also that as all interviews, with the exception of one, were conducted with parents/legal guardians, responses reflect parental perception of their child's experience. These recorded responses may differ from the child's actual experience or perception.

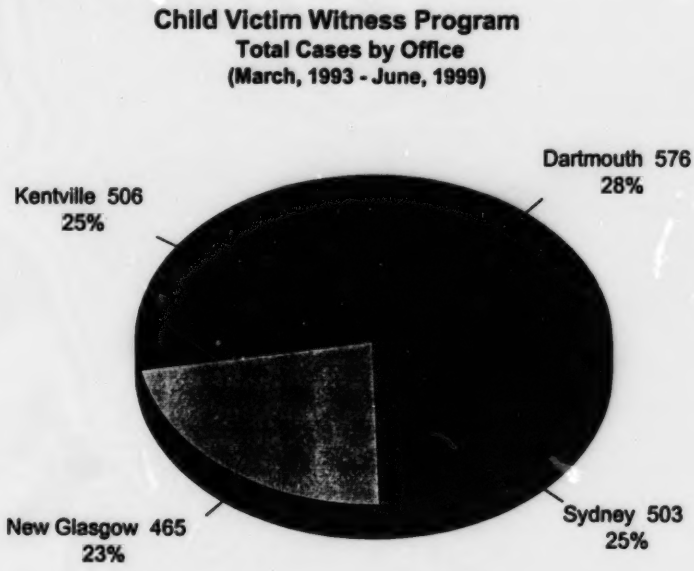
Interviews were conducted with seven of the complete roster of 22 Support Workers. Interviewees were selected based on the percentage of clients to whom they had offered service during the time period under study. The interviews therefore reflect a large percentage, but not the total files during this time period.

Key Findings

DEMOGRAPHICS

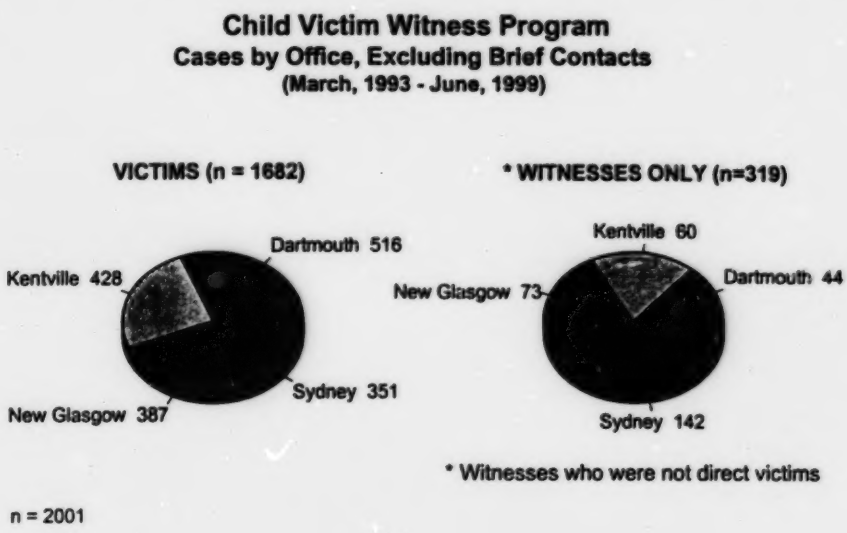
A total of 2,050 children who were either direct victims of a crime or witnesses to another person's victimization were served by the Victims' Services Division in the province of Nova Scotia during the period, March, 1993 - June 30, 1999. Cases were equally distributed throughout the province, with services provided from four regional offices, in two rural and two urban settings.

Chart 1: Total Cases by Office



Overall, 84% of cases involved direct victims of a crime.

Chart 2: Cases by Office - Excluding brief contacts



We have found an increase in the number of children who are witnesses but not direct victims of a crime during the review period. In order to contribute to the literature on child victims who come before the criminal courts however, the remainder of this report focuses on the 1,682 children who were direct victims of crime.

Referrals

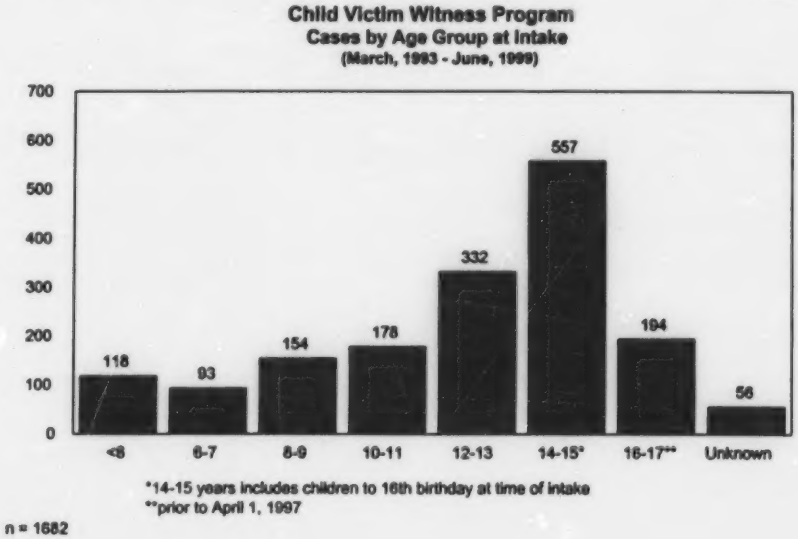
From information on 887 cases where referral source is known, between March, 1993 and June 30, 1999, just over half (53.9%) were referred from either a Crown attorney or directly from police. Conversations with staff reveal that a greater number of referrals were received from Crown attorneys than is indicated in the statistics, as one referral only per case is recorded. In some cases a file has already been opened at the time a Crown referral is received.

The information on referral source has relevance within this study with reference to the stage of the criminal proceedings when the referral is received. Information was available in 860 cases involving victims on the stage in the criminal justice process that the referral was made to the CVWP. A child is eligible to receive the court preparation curriculum after the criminal investigation is completed, a charge has been laid, and a court date scheduled. Of the 860 cases reporting referral stage, 91% of children were referred either before the preliminary hearing or trial, making possible the provision of a full array of services to the child victim.

Client Profile

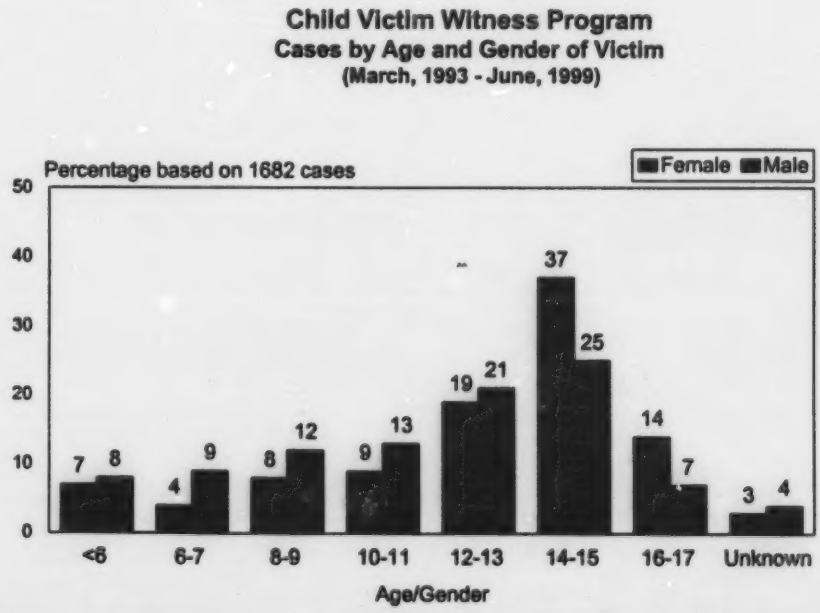
From information on 1,626 cases where age is known, just over 50% of children were 12-15 years of age at the time of intake. Seventy-three percent of this age group however, were female.

Chart 3: Cases by Age Group at Intake



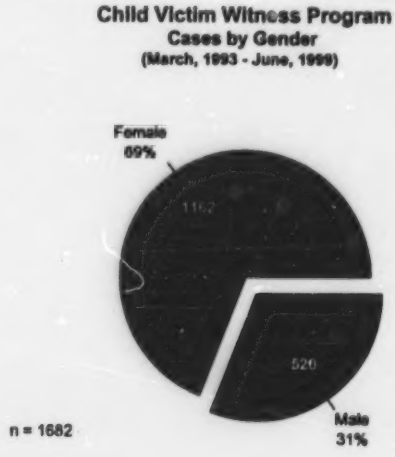
Considering only children under 16 years of age (i.e., excluding children aged 16-17, prior to April 1, 1997), the average age was 11.6; the median age was 13. The average age was slightly older for girls (12.0) than boys (10.8).

Chart 4: Cases by Age and Gender of Victim



Just over two-thirds of the total sample of cases involved female children.

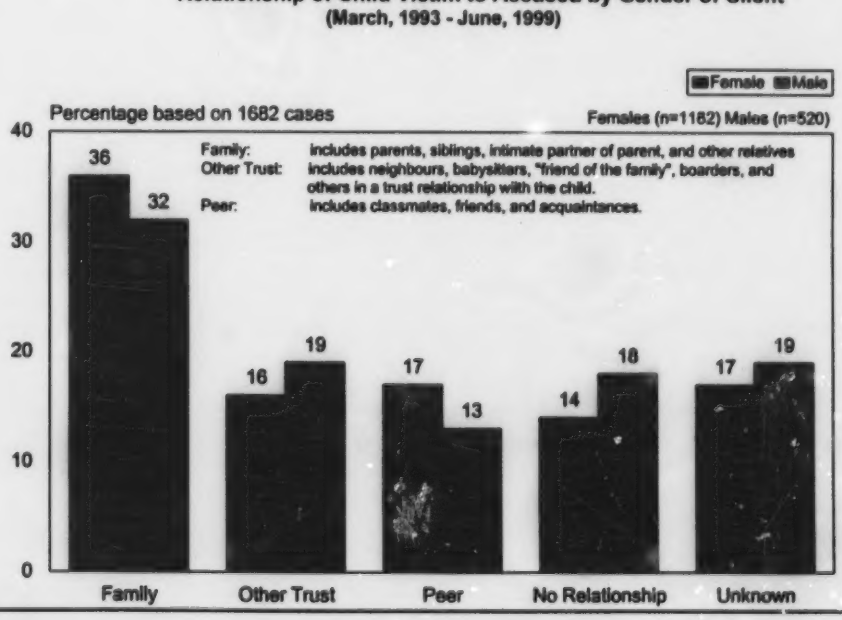
Chart 5: Cases by Gender



Relationship of Client/Accused

In 1,383 cases where relationship to the accused is known, 81% of children knew the accused, either as a family member (42%), a trusted adult (20%), or a peer (19%). Girls were slightly more likely than boys to be victims of a crime within the family or within a peer relationship; boys were slightly more likely than girls to be victimized by a trusted adult or a stranger.

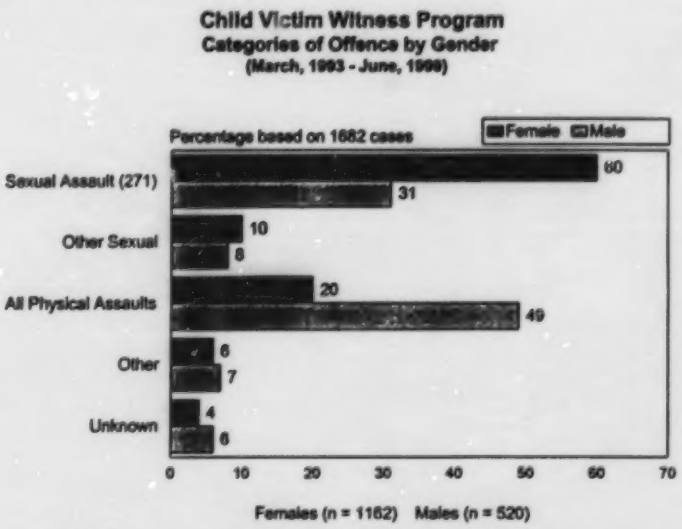
Chart 6: Relationship of Child Victim to Accused by Gender of Client



Categories of Offences

Female children were nearly twice as likely as male children to be victims of sexual offences; male children were much more likely than females to be victims of physical assaults.

Chart 7: Categories of Offence by Gender



Within the family, within peer relationships, and in cases involving abuse by a stranger, girls were more likely to be victims of sexual offences, and boys were more likely to be physically assaulted. Sexual victimization within a trust relationship was similar for both genders.

Chart 8: Relationship by Offence and Gender

Percentage based on numbers of female and male clients.

n = 1347	Female : n = 936			Male: n = 411		
	Sexual	Physical	Other	Sexual	Physical	Other
Family	31%	12%	1%	13%	24%	3%
Other Trust	17%	2%	1%	17%	5%	1%
Peer	13%	6%	2%	5%	9%	2%
Stranger	11%	3%	2%	8%	12%	2%

Demographics: Implications of Key Findings

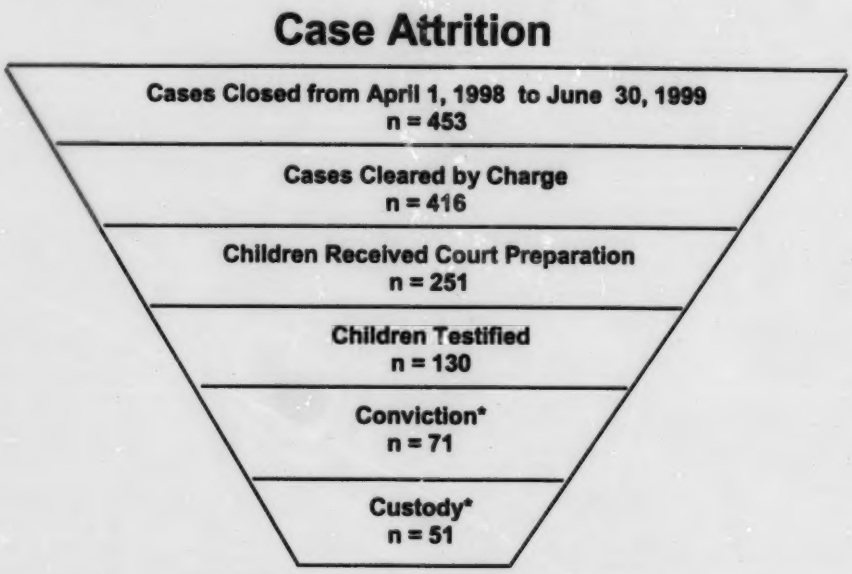
From demographic information detailed above, for children served by the CVWP from March, 1993 - June, 1999, it is determined that, though this study has focused on children who are direct victims of crime, the age and gender breakdown is consistent with that of the pilot program that included both victims and witnesses.

COURT PROCESS

Study Sample

Figure 1 provides an overview of the flow of cases closed for the sample period of April 1, 1998 - June 30, 1999. The total number of cases that resulted in a conviction (n = 78), and in which the offender was committed to custody (n = 55), was slightly larger. This report focuses on court process in those cases where children received court preparation.

Figure 1: Case Attrition



*in cases where children received court

This subsample of cases (n = 453) is demographically similar to the total 1,682 cases involving child victims. Two-thirds of the child victims whose cases were closed between April 1, 1998 - June 30, 1999 were girls; one-third were boys. The majority of children (60%) were between the ages of 12-15; 30% were ages 6-11; 8% were younger than 6 years-old.

The gender difference was roughly the same for the total cases cleared by charge (n = 416), although slightly fewer sexual offence cases proceeded. The following provides a profile:

Profile of Cases Cleared by Charge (n = 416)

- 65% involved female children, and 35% involved male children;
- 56% of cases involved sexual offences; 36% involved physical offences; 8% other;
- girls were more likely to be victims of sexual than physical offences (64% versus 28%);
- boys were more likely to be victims of physical than sexual offences (52% versus 41%);
- in cases where relationship is known (n = 342), 37% involved an accused within the family; 63% involved an extrafamilial accused.

In 19% of cases guilty pleas were entered (n = 68) or charges were withdrawn (n = 12) before a preliminary hearing or trial date was set.

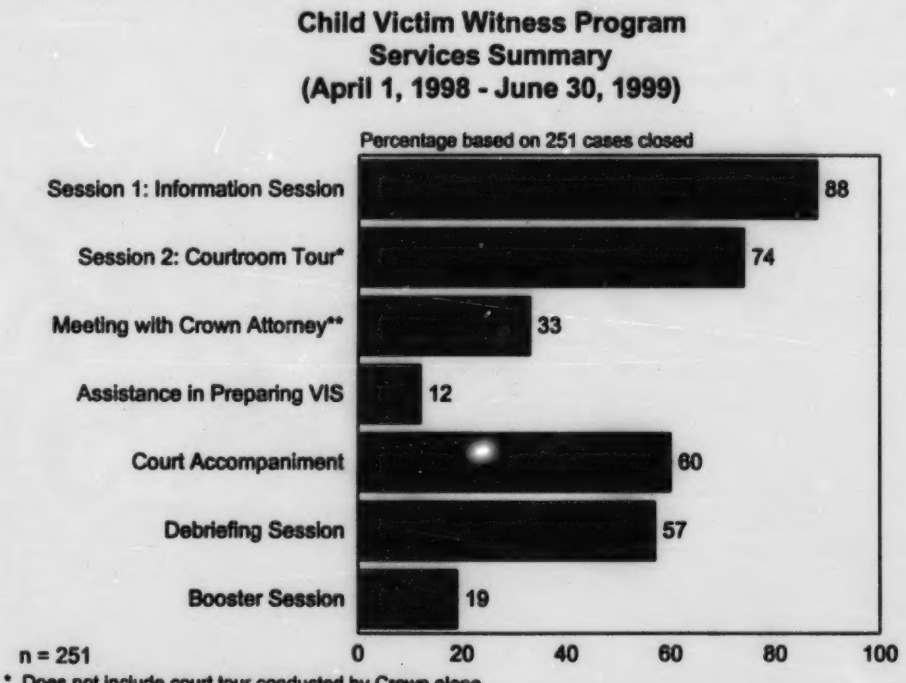
Court Preparation/Service Provision

Court preparation was provided to children in 60% of cases cleared by charge (n = 251). In nearly half of these cases children would ultimately not be called upon to testify either because a guilty plea would be entered just prior to, or the day of the trial, or their case was stayed, withdrawn, or dismissed. We know that for the latter group, on average, it took 10.9 months for these outcomes to be reached. These are the number of months on average that the children would have experienced the mounting anxiety of a pre-trial wait, prior to learning their testimony would not be required.

In only 30% of cases where children received court preparation, were applications made to the Criminal Injuries Compensation Program. Although counselling was awarded in nearly all of the approved applications, less than half (43%) of children who were awarded counselling actually accessed the award.

Chart 9: Service Provision

Profile of Children Testifying



* Does not include court tour conducted by Crown alone.

** Does not include meetings with the Crown held in conjunction with either the court tour or court accompaniment. As one case can receive many services, numbers will not add to 100 percent.

Just over half of those who received court preparation actually testified; an additional two children who did not receive court preparation were called upon to testify.

Profile of Children Testifying (n = 130)

- just over two-thirds were girls;
- most testified only once.

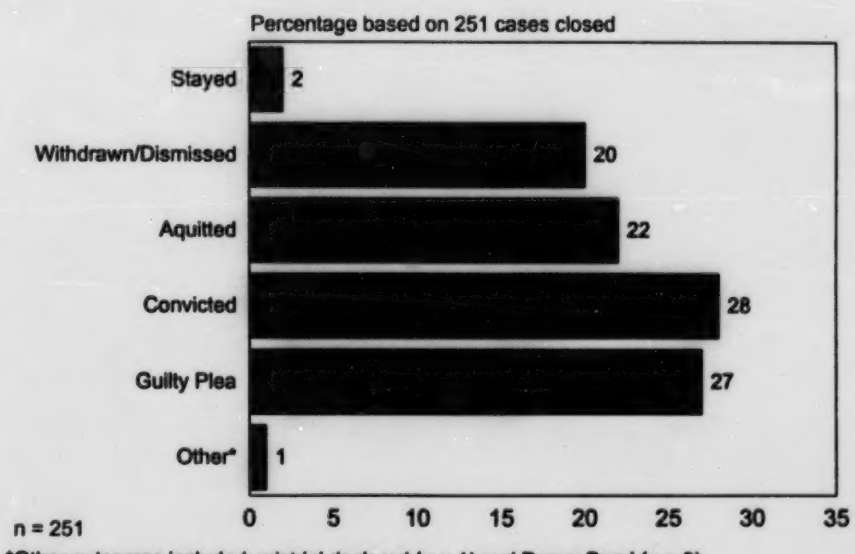
Children were more likely to testify if:

- they were between the ages of 12-15 (more likely for girls);
- the offence was sexual (much more likely for girls);
- the accused was someone outside the family (slightly more likely for boys).

Court Outcomes

Just over half the cases in which children received court preparation resulted in a finding of guilt, either through guilty plea or conviction; 22% of cases were either stayed, withdrawn, or dismissed; the accused was acquitted in 22% of cases.

Chart 10: Court Outcomes on Cases Where Children Received Court Preparation



Forty-two percent of all guilty pleas were entered after the child had been prepared to testify. In considering findings of guilt by either guilty plea or conviction, we found that:

Findings of Guilt in Cases Where Children Received Court Preparation (n = 139)

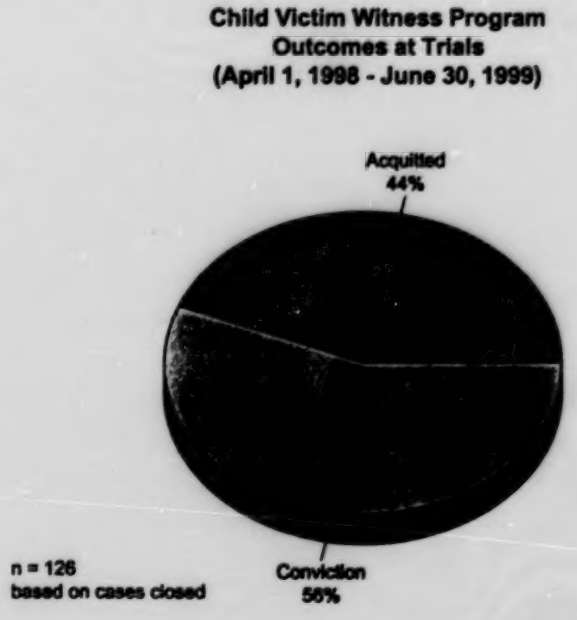
A finding of guilt, equally likely for girls and boys, was more likely in cases involving:

- children between the ages of 12-15;
- a physical versus sexual offence;
- an accused outside the family.

When the accused was someone within the family, girls were slightly more likely than boys to see their case result in a guilty finding.

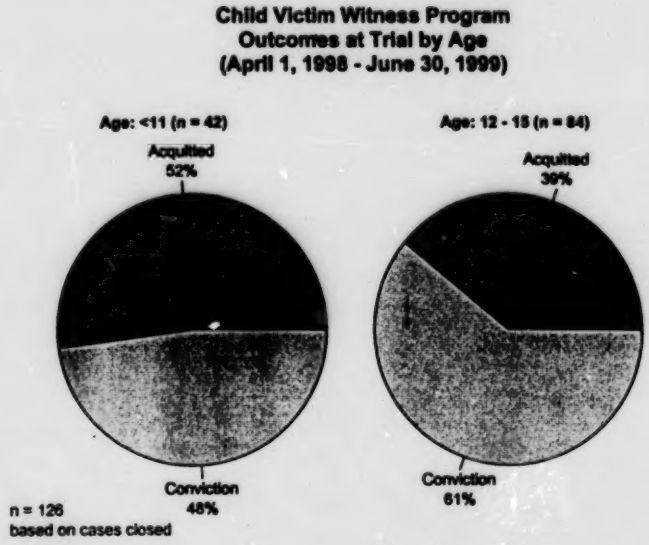
Cases involving sexual offences were less likely than cases involving physical offences to result in a guilty plea, and more likely to be acquitted at trial.

Chart 11: Outcomes in Cases Where Trials Were Held, and Children Received Court Preparation



Convictions, which occurred in just over half of the cases that went to trial, were somewhat more likely for boys than for girls, and more likely for older children (12-15). Each of the four cases involving children under the age of six resulted in an acquittal.

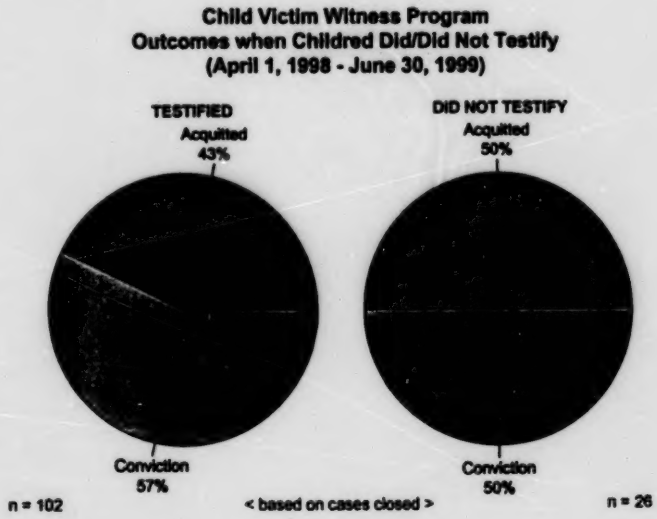
Chart 12: Outcomes at Trial by Age



In 57% of cases where children testified the accused was convicted, compared to 50% of cases where children did not testify. When children testified the accused was convicted more frequently when the relationship was extrafamilial (64%) than intrafamilial (46%); convictions were equally likely for sexual and physical offences.

It is noted that further examination is necessary by *Criminal Code* offence to determine the relevance of these findings.

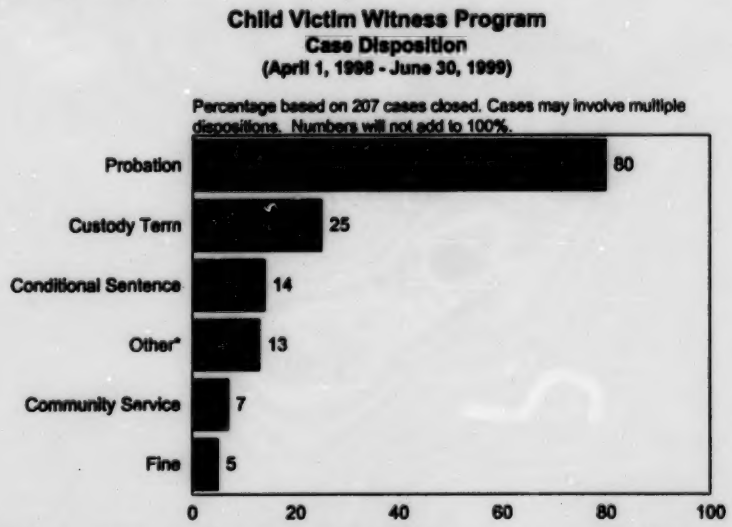
Chart 13: Outcomes When Children Testified



Case Dispositions

From information available on 219 cases where children received court preparation, on average it took 9.3 months for the case to be resolved[6]. It took longer than this on average when only cases that were stayed, withdrawn, or dismissed are considered (10.9 months).

Chart 14: Case Dispositions



*Other dispositions include Alternative Measures, Adult Diversion, house arrest, prohibition order, restitution, absolute discharge, apology, 100 word essay, accused deceased.
As one case can receive more than one disposition, numbers will not add to 100 percent.

By far, the most common disposition was probation, ordered in 80% of cases; the offender was committed to custody in 25% of cases. Both dispositions were more likely for cases involving girls than for cases involving boys. It is noted that further examination is necessary by *Criminal Code* offence to determine the relevance of these findings.

Custody (n = 51)

A term of custody was more likely when:

- the offender was inside rather than outside the family (32% versus 21%);
- the offence was sexual rather than physical (31% versus 16%);
- the child testified (15% versus 12%).

Sentence length varied from one day to life (murder) , with an average (excluding the life term) of 17 months.

[6]As it is understood the arraignment date can follow the date of charge by from 6 weeks to 2 months, this length of time will be increased by that amount.

Sentence Length (n = 43)

Sentences, on average were longer when:

- the victim was a boy rather than a girl (19.5 months versus 16.2 months);
- the offence was sexual rather than physical (22.6 months versus 4.9 months);
- the offender was within the family (26.4 months versus 14.5 months);
- the child testified (31.3 months versus 7.5 months);
- a Victim Impact Statement was submitted (23.4 months versus 5.4 months).

Court Process: Implications of Key Findings

An examination of data on cases closed between April 1, 1998 - June 30, 1999 reveals that this subsample of cases is demographically similar to the total 1,682 cases involving child victims that were opened between March, 1993 - June 30, 1999.

While the majority (60%) of child victims were between the ages of 12-15, 38% (n = 171) were younger than 11 years-old; 36 children were younger than six years-old. This trend has remained consistent since the program's inception. As noted earlier, program resources were modified to reflect the predominantly older age group served than that for which printed materials had been available. It remains the case that the research literature focuses particularly on the needs and vulnerabilities of young children. The continuing challenge for program staff is to accurately anticipate and provide for the needs of, particularly, older adolescents.

The fact that girls were victims in roughly two-thirds of all cases continues to have implications both for service provision within the CVWP and for the choice of Crown when cases are prosecuted. The pilot project had concluded that the gender of the Crown could have a significant bearing on the ability of the child to be an effective witness.

Over two-thirds of cases involved extrafamilial abuse, suggesting perhaps that children are most at risk outside the family. However, this report concurs with the alternative explanation offered by Sas (1999); that is, as a society there may continue to be a reluctance to charge family members.

In 60% of cases that were cleared by charge children were still facing the prospect of testifying six weeks prior to a preliminary hearing or trial date, at which time the court preparation process normally begins. While just over half of those children who received court preparation actually testified, each of these 251 children would have experienced increasing anxiety at the prospect of testifying over a sometimes lengthy period of time. It is well known that pre-trial waiting is one of the most stressful times for children (Sas et al., 1993).

The finding that in only 65% of cases in which children testified after receiving court preparation a meeting with the Crown was scheduled, is inconsistent with anecdotal information from each of the regional offices, and from information gained from parent interviews, both of which suggest the meeting with the Crown is a standard practice in all cases involving child victims. A possible explanation may relate to the timing of meetings with the

Crown. Very often the Crown meeting is done in conjunction with the court tour. Statistics taken from Support Worker billings may not reflect these meetings as they would reflect the court tour only. Similarly, if meetings with the Crown occur on the actual day of the court hearing when the Support Worker accompanies the child to court, statistics may reflect court accompaniment only. This may be an area for program follow-up with regard to standardized recording.

The fact that in only 30% of cases where children received court preparation applications were made to the Criminal Injuries Compensation Program, comprises another area for program follow-up, to ensure the application process is explained and understood. The low number of applications received from parents/guardians of children who received court preparation may possibly be explained by the fact that some children will undoubtedly have accessed counselling earlier in the process either through contact with a child protection agency or through individual initiative. It is recognized also that the need or desire for counselling or others forms of compensation may not be recognized by some parents/guardians.

The further finding that though counselling was awarded to nearly all children whose Criminal Injuries Compensation application was approved, less than half actually accessed the award, may speak to the specific needs that children experience throughout the court process. Children will have been referred to the Victims' Services Division, in most cases no sooner than ten weeks prior to the preliminary hearing or trial date. By this time the immediate emotional response the child experienced as a result of being victimized may have receded somewhat as the child has had to develop a means of coping with the trauma of the event. Though the ability to access the counselling award remains intact for a five year period, there may be a reluctance to bring these highly emotional issues to the forefront once again. It should be noted as well, that this five year period will still be in effect for a number of these children, and the counselling award may yet be accessed.

Forty-two percent of all guilty pleas were entered after the child had been prepared to testify. These 68 children could have been spared the anxiety of an upcoming trial if the accused had made an earlier admission of guilt. In some of these cases the guilty plea would have been entered on the day of trial. In each of these cases hours of preparation with the Support Worker would have been involved, as well at least one, and possibly more, meetings with the Crown.

In this sample, convictions occurred in just over half of cases (56%) that proceeded to trial. This finding is identical to that of Sas (1999), who raises the question of whether the emotional stress of court involvement is worth the effort, when the prospect of conviction is so low. Slightly more cases resulted in convictions when the child gave evidence compared to those when the child was not called upon to testify. It should be noted however, that it is possible that children were only called upon to tesify in cases where their evidence was essential, so care should be taken in comparing these results. It is notable in this sample as well that when children testified in cases involving an intrafamilial accused, convictions occurred in less than half of the cases (46%). The implications for children are sobering. Not only must they face the reality that their disclosure has resulted in exposure of the abuse with its accompanying public recognition and breakup of the family, but they must contend as well with the possible internal belief that acquittal of the accused means they were not believed.

The finding that cases involving sexual offences were less likely than cases involving physical offences to result in guilty pleas and more likely to be acquitted at trial, is consistent with earlier studies that speak to "the clandestine nature of sexual abuse, and lack of corroborating evidence [that] continues to present a challenge to the courts" (Sas, 1999, p. 65).

This study determined that cases closed between April 1, 1998 - June 30, 1999 involving child victims remained in the criminal justice system, on average for 9.3 months from arraignment date to final disposition. Considering that arraignment date can follow the date of charge by from six weeks to two months, this calculation of average time is understood to be conservative. Both the literature and practitioners draw clear implications for memory retention, the quality of truth that is possible with an increase in the passage of time, and the resulting possibility of the creation of reasonable doubt.

This study further determined that cases that were stayed, withdrawn or dismissed after children had received court preparation took slightly longer on average to reach their final determination than the average time for all cases. In addition to children associating the outcome with an understanding that their testimony was not believed, is the compounding factor of the passage of time.

Though convictions occurred in fewer than half of cases involving an intrafamilial accused, it is notable that when convictions did occur in intrafamilial cases, not only was the offender more likely to be committed to custody, but also received, on average, a sentence nearly twice as long as did extrafamilial offenders. This finding is consistent with earlier studies. Though intrafamilial abuse may remain less visible in our society, the occurrence of more intrusive acts (Sas, 1999) in these cases is reflected in sentences handed down. Similarly, this study's finding that sentence lengths were much longer for sexual versus physical offences is consistent with earlier studies.

This study's finding that sentence lengths were longer when the child testified and when a Victim Impact Statement was submitted has distinct program implications. While it is interesting to note that convictions were only slightly more likely when children testified, sentence lengths on average in these cases were much longer.

While this study examined findings by grouping age and gender, sexual and physical offences, and relationship of the child to the accused, further exploration by specific *Criminal Code* offence is necessary to determine the relevance of findings in relation to outcome and disposition.

CHILDREN'S NEEDS IN RELATION TO CURRENT SERVICES WITHIN THE CRIMINAL JUSTICE SYSTEM

Client Expectations

In interviews conducted with the 19 parents in our study, in relation to service needs we learned:

Service Needs

- the majority of parents did not know about the CVWP prior to their contact with the Victims' Services Division;
- the primary need was for information;
- other services became important as parents learned about the service;
- the two most important services received were information and support;
- follow-up after the trial was the most critical area where service was sometimes not received.

Waiting for the Court Day to Arrive

In the months leading up to the day of court, we learned that:

Waiting for the Day of Court

- most children met with the Support Worker at least three times;
- in nearly half of the cases children met with the Crown attorney more than one time;
- the majority of the children first met with the Crown less than one week, or one-two weeks before court;
- most children were described as highly anxious; behaviours included fear of going out alone, nightmares, moodiness, withdrawal from family and friends, and thoughts of suicide;
- children's four most common fears were associated with:
  - → the accused being in the courtroom
  - → not knowing what was going to happen
  - → parents being present (teens)
  - → wondering if they would be believed
- parents were most fearful of their child being revictimized by the presence of the accused in the court.

Service Gaps and Barriers

Service gaps and barriers were identified by six of the seven Support Workers who were interviewed.

Service Gaps and Barriers

- the present activity-based service delivery does not permit Support Workers to provide as complete a service as they would desire, in relation to:
  - → ongoing support through the process,
  - → follow-up services particularly when the accused is acquitted,
  - → children with special needs, and
  - → young children;
- in family violence cases where both mother and child are victims, it is sometimes difficult to focus on the needs of the child;
- interim counselling (prior to CIC funded counselling) is perceived to be necessary to facilitate children's "immediate need to tell";
- when applications for CIC counselling are denied (approval is based on sufficient evidence to determine that on a balance of probabilities a violent crime has been committed), children may still be traumatized and require counselling;
- the child's right to support is still perceived to be at the discretion of the judge;
- a review of the curriculum tools is suggested to accommodate greater flexibility;
- diverse client population groups are under-represented;
- the complement of Support Workers is perceived to be top heavy with females.

The Day of Court

We learned a great deal from parents and Support Workers about the experience of children on the day of court that confirmed earlier findings and provided new information on the court process for children in Nova Scotia. We learned that:

The Day of Court

- though children generally arrive at the courthouse between 9 and 10 am they usually had to wait between one to three hours prior to testifying;
- children typically waited in a little room just outside the courtroom, where no activities were provided other than what the Support Worker supplied;
- children's greatest fear was of having to face the accused; in nearly all of the cases the children saw the accused while they testified;
- testimonial aids were rarely used;
- most children reportedly agree with defence lawyers; most will not be able to ask for a break;
- many children did not say everything in their testimony that they had wanted to say;
- parents thought the worst part was their child seeing the accused; Support Workers believe it is talking about the incident itself;
- one-third of the parents did not identify a "best part of testifying" other than their child "getting it over with";
- though Crown attorneys and judges were seen as generally sensitive to the difficulties chidren experience, there is sometimes a failure to recognize:
  - ▸ children's need for a break,
  - ▸ the desirability of a closed courtroom, and
  - ▸ the implications of rescheduling cases to a future date;

The Day of Court cont'd

- defence lawyers received lower ratings for sensitivity, reportedly asking leading questions, "pouncing" on children, or being sarcastic;
- appreciation was expressed for the efforts of the Crown to use language children can understand;
- the competency hearing is reportedly awkward and confusing for children;
- there continues to be need expressed for increased knowledge about the CVWP among justice personnel.

After Testifying

After Testifying

- support and information provided by the CVWP prior to, and during the trial process was viewed as critical by the majority of parents;
- although two-thirds of parents disagreed with the outcome of the trial, more than two-thirds did not regret reporting the crime;
- in more than three-quarters of the cases parents reported their children were glad they testified; in the majority of these cases children felt vindicated in knowing they had fought back.

Recommendations for Change

Parents offered several recommendations for changes to the justice system to make it easier for children while waiting for court, the day of court, and after testifying. Most frequently noted were:

Parents' Recommendations for Change

⇒ shorten the time frame of investigation, or from investigation to trial;
⇒ explore options, e.g., videotaping, so children would not have to see the accused while testifying;
⇒ increase follow-up services after testifying.

Recommendations most frequently provided by Support Workers included:

Support Workers' Recommendations for Change

⇒ improve resource material, to assist children to understand and talk about their feelings;
⇒ increase opportunities for contact with children prior to court; increase follow-up after court;
⇒ schedule, and hear cases earlier in the day;
⇒ increase comfort of waiting areas, with age-appropriate activities, particularly in satellite courts.

Three of the seven Support Workers noted the risk to children of revictimization through their involvement with the criminal justice system.

Children's Needs in Relation to Current Services Within the Criminal Justice System: Implications of Key Findings

From interviews with parents and Support Workers we are able to gain a picture of the experience of children who testify about their own victimization in criminal courts in Nova Scotia.

Children experience significant anxiety leading up to the day of court, apprehension that is most often displayed in behaviours that cause them to withdraw from others. Their main fear is of having to face the accused in the courtroom; most in fact do.

Our data suggests there is an under-recording of meetings with Crown attorneys, raising implications for program follow-up to ensure this data is captured. Alternatively, the data may suggest that either not all children in this sample met with the Crown attorney prior to the day of court, or the first and only meeting was on the day of court itself. Either possibility raises clear implications for future practice. Sas (1999) notes that in prior meetings Crown attorneys can learn about young witnesses' verbal comprehension, level of anxiety, fears, maturity, distractibility, and concentration. Without this information the ability of the child to convey the truth of her/his experience in an adult environment is jeopardized. Further, children's level of anxiety may be expected to diminish considerably when adequate rapport is built with the Crown who will have a most intimate knowledge of their victimization.

The lack of a child-appropriate waiting area in all cases was made evident, particularly in satellite courts. While the waiting room in each of the regional offices, located in the court facility, is equipped with children's activities, this is not the case on a province-wide basis. The fact that children could sometimes see the accused while waiting, and that there were typically no age-appropriate activities present beyond what was provided by the Support Worker, reminds us that children are participating in an adult environment where their needs are yet to be fully incorporated.

Support Workers have identified areas specifically related to the CVWP that require further improvement: curriculum resources, training, and follow-up sessions.

The practice of dispensing with other items on the court docket prior to hearing the case in which the child is to testify, while intended to assist children by having fewer people present when they testify, has the detrimental effect of increasing the time children must wait. Regardless of age, pre-trial waiting beyond one hour is perceived as agonizing for children.

Children experience significant stress while testifying about their own victimization. This study has determined that many police, Crown attorneys and judges are aware of, and sensitive to the difficulties children experience; though recognizing the differing role of defence lawyers, interviewees gauged them as much less sensitive. This study has also determined that further work is necessary in relation to children's examination on the stand, to ensure their appropriate treatment.

The provisions of Bill C-15 more than a decade ago, for the use of testimonial aids when

children testify, are not widely used in Nova Scotia. Appropriate use of the screen requires further study that incorporates individual children's needs and consequences of its use.

Parents and Support Workers have offered clear recommendations for changes to increase children's comfort and lessen their trauma while participating in the adult environment of criminal court. To best serve the administration of justice, these, and other considerations emerging from the study will be considered in the context of examining the conditions under which children may be expected to provide the most accurate testimony.

DISCUSSION AND RECOMMENDATIONS

The work of Regan and Baker (1998) raises the dilemma that remains current for those who bear the responsibility of providing the critical service of court preparation to children who will be called to testify in criminal court. They note that the very techniques employed to help children to cope with the trauma associated with testifying may increase the likelihood that the manner in which they deliver their testimony will raise doubts about their credibility in the minds of jurors. This finding led to two suggested options to increase the likelihood that the demeanor of children would correspond with what they determined jurors expect to see:

- reduce the delay between the reported offence and the trial date; reduce the number of interview sessions; reduce the amount of preparation children receive prior to testifying, or
- increase reliance by the courts on measures that would prevent the child's face-to-face confrontation with the accused, e.g., videotaped testimony, closed-circuit television, or screens.

Further, the literature suggests that convictions are more likely (Hamblen & Levine, 1997), as are longer sentences (Sas et al., 1993) when live testimony is heard.

The "twin, but potentially opposed aims" discussed by Wachtel (1997) further illuminate the continuing dilemma of how best to support the needs of children in an existing adult system, and whether the particular needs of children can coexist with the requirement of ensuring a fair hearing for the accused. Wachtel also proposes two streams of change, emphasizing:

- physical changes to courtroom layout to better accommodate children, and
- changes in practice that progressively remove the child from the courtroom and potentially from the courthouse.

While both streams identified by these studies focus on the needs of children, following the former suggestions leads to changes that focus on legal intervention and prosecution in accommodating children to an existing justice process designed for adults. Following the latter suggestions constitutes changes that, it may be argued, focus primarily on helping children deal with their victimization. While it is evident that both streams of change are necessary, the risk of retraumatizing children in an adult justice process remains. Empirical study on the long term effects of testifying is an area for continued research, as is the unexplored effect of "the legal system's involvement on the victim's treatment", i.e., disruption of therapeutic interventions (Levesque, 1995, p. 76).

Recommendations have been formulated in six key areas: program operation, waiting for the day of court, the day of court, after testifying, professional training, and implementation. This report concurs with Sas (1999), that many recommendations are not new, but have not yet been routinely implemented.

Program Operation

Interviews with parents and Support Workers revealed important areas for program consideration:

1) the curriculum tools, modified at the conclusion of the pilot program to accommodate the primary age group of children served, are still perceived to inadequately serve older adolescents;

2) in recognition that individual client circumstances often do not fit within a prescribed program format, the number of allowable sessions and fee structure is perceived to be limiting, particularly in cases involving young children, children with special needs, and in cases resulting in acquittal. While it is recognized that the program permits extra client sessions upon approval, this policy appears to be unclear in practice, as Support Workers are regularly providing services for which they are not being remunerated;

3) the program is not presently representative of the diversity of cultural and linguistic groups in Nova Scotia. It is anticipated an Aboriginal Outreach Project (six month pilot) will begin in Halifax and the central region in the near future, and the Victims' Services Division would like to conduct a similar project in the Black community. The intent is to provide education about the CVWP, liaison, and develop culturally sensitive materials;

4) given that the complement of Support Workers is primarily female, the program does not have the ability to provide services by male workers if requested by clients. While it is recognized the majority of clients request a female Support Worker, the program currently does not have the capacity to offer a Support Worker of either gender.

It is recommended that the Victims' Services Division develop a process to review curriculum tools and fee structure, examine and address service gaps and barriers identified, and maintain efforts to serve a diverse population of children, with sensitivity to culture and gender.

While it is evident from our data that not all parents perceive their children require counselling or other compensation previously provided by the Criminal Injuries Compensation Program, it is also apparent that where parents indicated they did need assistance in completing an application, they did not always receive this service. Further, it may be that parents were not always told about the services available through the Criminal Injuries Compensation Program, as in only 30% of cases application was made.

Support Workers' recognition of children's need for counselling, coupled with the relatively small number of applications received for CIC funded counselling may point to the dilemma inherent in the present system. Children are encouraged to report abuse, but in reporting, a therapeutic intervention they may require may be disrupted or delayed while the case proceeds

through the criminal justice system. Therapy at that stage, with the associated possibility of contamination of evidence or witness suggestibility, risks compromising the outcome of the case. It may be argued that both the therapeutic intervention and a guilty finding are in "the best interests of the child". It is clear that an answer to this dilemma remains to be found.

It is recommended that the Victims' Services Division develop a process to investigate if children who require counselling are adequately being served, reasons why more children are not applying to the Criminal Injuries Counselling Program, and what would make the application process more accessible when families want to apply.

It is recommended that applications to the Criminal Injuries Counselling Program be encouraged in every case, and that applications involving children have priority for immediate processing.

Waiting for the Court Day to Arrive

Data from this study reveal that meetings with the Crown may, in some cases, occur just before court, and children may meet with the Crown attorney only once before testifying. As noted earlier, this may leave insufficient time to learn essential information about the child's demeanor, emotional condition, and ability to provide accurate testimony. Further, rapport building is considered a critical component of supporting child witnesses, to reduce their fear and lessen their anxiety.

This study concurs with the recommendation of Sas (1999) who states that:"[c]hildren should have the benefit of at least three meetings with their Crown Attorney; the first to build rapport, the second to review their evidence and the third as a follow-up, before testifying in court. This should be offered not only to child victims, but also to children who are witnesses. Crowns should re-meet children before the trial, even if they have already met with them several times before the preliminary hearing" (p. 75).

It is recommended that Crown attorneys meet with child victim witnesses at least three times before they are required to testify, for the purposes described by Sas (1999).

One of the critical findings of this study was the average length of time taken for cases to proceed through the system. It is noted that one of the 19 cases selected in the study for parental interview was postponed three times over a "couple of years". The most frequent suggestion received from parents was that this time frame from investigation to trial be shortened. Further, the finding that the average time was longer for cases that were stayed, withdrawn, or dismissed suggests that there is insufficient examination of cases early enough to determine if there is enough evidence to proceed. The passage of time can have a negative impact for children's psychological well-being, for the quality of children's memory recall, and ultimately for the Crown's case. In the words of one Support Worker, "six months to a child is

forever .... They can't even comprehend sometimes ... kids that age trying to remember .... It's pretty easy to create reasonable doubt".

During this time of waiting children's "immediate need to tell" is denied, creating one of the most disturbing aspects of their revictimization. They may have been told by their abuser over a period of months or years, not to tell "the secret". Having made the secret known, they may be again denied the opportunity to speak. Therapy may be delayed until the outcome of the case. The Support Worker, providing a non-evidentiary service, must take care to avoid speaking with the child of details of her or his victimization. The child's parent or supportive adult may be instructed also to avoid discussions with the child of the details of the incident(s).

> It is recommended that cases involving children be given priority attention for Crown review, that Crown pursue the earliest possible trial dates, and that cases be moved through the court system as quickly as possible.

The Day of Court

In addition to lessening the time from investigation to trial, this study concurs with earlier reports that advocate a decrease in the time children wait on the day of trial. The well-intentioned practice of dispensing with other items on the court docket prior to hearing the cases in which children are scheduled to testify, extends the pre-trial wait and creates an uncertainty that compounds the anxiety children are already experiencing.

Several options might be considered to avoid a sometimes lengthy wait for children following the usual 9:30 am sitting of court:

1) schedule children's cases at 2 pm. While this might be a valid option for adolescents, for very young children this is clearly not an optimum time;

2) provide a more realistic time for children to arrive, e.g., 11 am after other items on the docket have been addressed. This however, could recognizably create scheduling difficulties;

3) hear cases in which children are scheduled to testify at the beginning of the day. This option however, would require other cases to be scheduled later to avoid the presence in the courtroom of those unrelated to the case, when the child testifies;

4) schedule special times or sittings to accommodate the special needs of children.

It is clearly evident that Crown recognize the necessity of accommodating the special needs of children. The degree of accommodation necessary however to integrate children within the time frame of regular sittings of court is evident as well. This report questions if the necessary degree of accommodation is possible without a significant scheduling change.

It is recommended that special times or sittings of court be scheduled to reduce or eliminate pre-trial waiting for child victims.

There are only four courthouses in the province where Victims' Services offices, equipped with child-friendly waiting rooms, are located. There are many other courthouses where a separate waiting area, with age-appropriate activities is currently unavailable to children who are scheduled to give evidence. It is recommended that this deficit be remedied as quickly as possible. *The Victims' Rights and Services Act* (1989) provides this as a right to victims of crime, subject to availability of resources. Both parents and Support Workers, in addition to describing the discomfort of "dingy" waiting areas, spoke of children experiencing subtle threats and intimidation from the accused or the accused's family while they were waiting to testify. In some instances where a separate waiting area was arranged, the child was forced to encounter the accused in the hallway leading to the washroom.

It is recommended that child-friendly waiting areas be made available in every court where children are scheduled to testify, that age-appropriate activities be available, and that while waiting, children have access to washroom facilities without having to encounter the accused or the accused's family.

Support Workers who have dealt with the majority of cases involving child victims during the time period of this study described the competency hearing as confusing and awkward for children. Though judges were recognized to be generally sensitive to children's needs, examples were cited of instances where language used was well beyond children's comprehension.

The Nova Scotia Department of Justice's response to the recent federal consultation paper, *Child Victims and the Criminal Justice System* (1999), supported the elimination of the requirement for a competency hearing. It was suggested the hearing not only delays court proceedings unnecessarily, as the competence of children has, in most cases, been tested before the trial through conversations with the police and Crown attorney, but it is also wrong in principle to make competency contingent on or influenced by age.

Until possible changes are considered, and while present practice continues, guidelines for questioning children are supported.

It is recommended that guidelines of prepared questions offered by Sas (1999) (included as Appendix A) be widely distributed among the judiciary within Nova Scotia.

It is recommended that the Nova Scotia Department of Justice continue to support the elimination of the requirement for a competency hearing.

This study revealed that several parents assessed defence lawyers as showing little consideration for the difficulties children experience while testifying. Though recognition was stated for their differing role, examples were cited of behaviour during cross-examination that was highly intimidating for children. One parent strongly believed her child "was put on trial"; others believed that defence lawyers used their understanding of children's vulnerability to their advantage. Parents expressed distress at having to watch, and not being able to protect their children on the stand. At times judges reportedly intervened to ensure children's fair treatment. Support Workers also noted insensitive behaviour by defence lawyers toward children on the stand, with recognition stated that "sensitivity conflicts with their job". This study strongly concurs with earlier reports (Sas, 1999) in stating there can be no justification for such treatment. The purpose of the court is to serve the administration of justice. Apart from the fact that justice cannot be seen to be served when child victims experience intimidation, is the reality that *The Victims' Rights and Services Act* (1989, 3(1) (a)) has afforded to victims of crime the absolute right to be treated with courtesy, compassion and dignity.

It is recommended that standards be developed for defence lawyers regarding cross-examination of children. Standards shouid include age-appropriate questioning, and respect for, and sensitivity to children's inherent vulnerability.

Earlier reports have emphasized the importance of the use of the testimonial aids stipulated in Bill C-15. It is clear from our study that those aids are seldom used within Nova Scotia. The Nova Scotia Department of Justice's response to the federal consultation paper, *Child Victims and the Criminal Justice System* (1999), supported testimonial aids such as screens and closed-circuit television being more widely available. In addition to recognizing the request must not be contrary to the interests of the accused, that response advocated that "[i]nclusion of 'the best interests of the child' in the grounds to be satisfied in assessing use of a testimonial aid is considered to be beneficial as it recognizes that minimizing the witness' stress was not an objective of the previous legislation" (The Nova Scotia Department of Justice, 2000).

This study reveals however, that not only are testimonial aids seldom used within this province, it is evident that the benefit, particularly of the screen and videotaped investigative interviews as they are presently used, is in question. In addition to logistical considerations, it is the perception of some Support Workers that Crown attorneys believe the screen impedes an accurate assessment of how the child will respond to the accused. Inherent is the expectation of

a certain demeanor associated with truth, which Regan and Baker (1998) had identified. Further, Support Workers perceive the screen, in some cases, actually compounds rather than reduces children's fear, by removing what minimal control the child has in the situation, i.e., visual confirmation of the accused's position within the courtroom. Support Workers also questioned the value of videotaped investigative interviews, for their poor audio quality, the increase in time required for children on the stand necessary to review and adopt the tape, and for the defence lawyer's ability to use it as a tool to discredit the child's earlier testimony.

Results of this study suggest that there is a nearly equivalent likelihood of conviction whether or not children testify, though caution is expressed about the validity of this comparison. Our finding in relation to outcomes at trial confirms that of earlier studies (Sas, 1999), i.e., the probability of a finding of guilt is only slightly better than chance. There is clear reason to question the participation of already vulnerable children in a process that is known to cause them considerable stress, when their participation may not be a determining factor in the outcome.

Based on these results, it is evident that further investigation of alternative means of protecting "the best interests of the child"is required. It is recognized that provisions are available in other countries (United States, Scotland, Israel) that allow for video depositions to be used instead of children having to testify at trial (*Technical Background Paper*, p. 52). Such a provision might alleviate the singularly most stressful component of children's participation in the criminal justice system, that of once again facing the accused. Further thought would have to be given to find a way to ensure the rights of the accused within Canada. This exploration is encouraged.

> It is recommended that alternative means continue to be explored to gain "a full and candid account" *C.C.* s 486 (2.1) while safeguarding the best interests of the child, by preventing the child's face-to-face confrontation with the accused. Where children choose to personally give evidence, the opportunity for courtroom testimony should be provided.

After Testifying

One of the clear findings of this study was the need identified by both parents and Support Workers to increase follow-up services after children testify. This was a critical area noted by parents where needed service was sometimes not received. Three of the seven Support Workers expressed a concern that the allowable time for follow-up with children is insufficient. Current debriefing sessions are, in some instances understood to focus on reinforcing to the child that s/he did a good job while testifying. In some instances when the case has been held over for sentencing the child has not been informed of the outcome.

It is recommended that the court preparation curriculum be expanded to enhance the debriefing and follow-up component, to provide children with an opportunity, not only to know they have done a good job in testifying, but to express their feelings about what happened during the court process. It is further recommended that when cases are held over for sentencing, Support Workers be in attendance whether or not the child is present, and communicate the results to the child and her/his supportive adult.

This follow-up role, important for all children, is particularly critical in cases resulting in acquittal, when children may be coping with significant issues associated with grief and loss. Both the literature and response in parent interviews clearly confirms this is a particular area of need. Some of the Support Workers indicated that they do not have a sufficient level of comfort to confidently address the variety of issues that may be expected to arise. A specific request was made for further training.

It is recommended that the Victims' Services Division provide training for Support Workers in providing assistance to children when cases result in acquittal.

Support Workers noted that counselling through the Criminal Injuries Compensation Program is sometimes denied in cases resulting in acquittal, leaving the child's possible need for counselling unmet. It should be noted that, within the context of the criminal justice system the Criminal Injuries Counselling Program, as it is now termed, provides funding for counselling where, on a balance of probabilities, a violent crime has been committed. An inability to provide funding in those cases where there is not sufficient evidence to determine on a balance of probabilities that a violent crime has been committed, does not however, deny the fact of the child's emotional or psychological need. It is clearly recognized that a service gap may exist, and the child's need for counselling must be addressed.

It is recommended that Regional Victims' Services Offices explore every avenue to access counselling for children who do not qualify to receive counselling through the Criminal Injuries Counselling Program.

Professional Training

Earlier studies have recommended, as Support Workers have identified in this study, that the onus is on justice personnel to convey sensitivity to child victims. As children will, in many cases, not be able, nor should they be expected to, take the initiative to ask permission to ask questions, or to disagree with the claims and statements of adults, it is imperative that justice personnel extend themselves in relation to children. Even small gestures are known to make a considerable difference. Within the courtroom, the judiciary bear the responsibility of

intervening to ensure the appropriate treatment of children.

Further, information and awareness in relation to the variety of children's emotional responses to their victimization may be critical in relation to three areas: 1) to assist Crown in assessing children's level of anxiety and ability to be reliable witnesses, 2) to alleviate possible reluctance by Crown to request the use of the screen where it could benefit the child, due to the perception that not using it provides a truer sense of how the child responds to the accused, i.e., children are perceived to be more credible when they break down, and 3) to assist judges' charge to juries, to offset the possible assumption that expected displays of emotion equate with truth.

For the role of child victim witnesses to be fully integrated within the criminal justice system, it is vital that police, Crown attorneys, judiciary, defence lawyers, as well as courtroom personnel, receive ongoing training in the stages of child development, age-appropriate questioning, and children's emotional response to victimization.

> It is recommended that ongoing professional training be provided to justice personnel involved in cases with child witnesses, in relation to sensitivity to children's developmental needs, and appropriate methods of communication.

Finally, it is evident from this study that an ongoing need exists for greater awareness of the Child Victim Witness Program among justice personnel. The program is still relatively new within the Department of Justice, and the need for ongoing promotion is not unexpected. Though Support Workers indicated that a collaborative process has developed in many cases with the Crown, increased public and professional awareness was advocated to ensure all children are referred early in the criminal justice process so they receive the support available to them through the program.

> It is recommended that the Victims' Services Division increase efforts to promote the services of the Child Victim Witness Program to police and Crown attorneys, and to the general public.

Implementation

It is recognized that the implementation of these recommendations can best be accomplished through the joint efforts of many partners who currently provide services to children both within government and community, throughout the various phases of investigation, prosecution, and treatment. The perception of all partners is critical in determining the implications for children of the courtroom experience on efforts to deal with their victimization, and in identifying present obstacles and the best processes for change.

It is recommended that a committee be established consisting of representatives of the Department of Justice, the Public Prosecution Service, and child welfare agencies, to explore implementation of the issues identified in this report.

Future Research

Each of these recommendations has addressed specific components of current practice that are believed to promote conditions under which children may be expected to provide the most accurate testimony. As such, they largely represent a focus on interventions to accommodate children to an existing justice process designed for adults. These recommendations however, have also sought to address "the best interests of the child", through a focus on helping children deal with their victimization.

This study echoes earlier reports in suggesting that changes to date to accommodate children within the criminal justice system, though beneficial, have not gone far enough. It is evident that the risk to children of their trauma being relived in the courtroom is reason alone to validate a differing approach to their participation.

Prior to becoming Chief Justice of The Supreme Court of Canada, The Honourable Beverley McLachlin, in a presentation at a training session for all Nova Scotia judges in 1998, stated that "impartiality does not require indifference to the needs of victims". When child victims are involved in a justice system created for adults, and where their needs are yet to be fully integrated, that caution is particularly critical. Sas et al. (1993), despite finding that child victims held negative perceptions of their court experience, did not conclude that children should not be called upon to testify. Sas et al. compared children's experience to the poor treatment of rape victims and battered women by the courts that researchers had previously documented, suggesting their findings had led to advances in how these groups had been received in the justice system. The more strongly worded conclusion of Sas (1999) cities the Victoria Child Abuse Prevention and Counselling Society's brief to the British Columbia Attorney General Department that suggests children's treatment in the courtroom violates their rights to protection from abuse (based on the U.N. Convention on the Rights of the Child). Sas concludes "[i]f we are sincere in our efforts to protect children from victimization, we **must** accept responsibility for their victimization in the courtroom and make the necessary changes" (p. 86).

This report concurs. Children do not have the cognitive ability to understand or defend against their victimization and their subsequent treatment when that victimization is examined in the courts. Their situation is not comparable to that of adult victims. As such, it is the responsibility of adults, not only to protect them from victimization, and to protect their right to respectful treatment in determining if a crime has been committed, but also, to ensure that the experience itself does not inflict further harm. It is the responsibility of the criminal justice system to continue to grapple with the "twin, but potentially opposed aims" of supporting child witnesses and ensuring the accused of a fair hearing.

References

Department of Justice Canada. (1999, November) *Child Victims and the Criminal Justice System: A Consultation Paper.*

Department of Justice Canada. (1999, November) *Child Victims and the Criminal Justice System: Technical Background Paper.*

Hamblen, Jessica Liebergott, and Levine, Murray. (1997) The Legal Implications and Emotional Consequences of Sexually Abused Children Testifying as Victim-Witnesses. *Law and Psychology Review* 21, 139-179.

Levesque, Roger J.R. (1995) Prosecuting Sex Crimes Against Children: Time for "Outrageous" Proposals? *Law and Psychology Review* 19, 59-91.

Province of Nova Scotia. (1989, c.36) *Victims' Rights and Services Act.* Halifax: The Queen's Printer.

Regan, Pamela C., & Baker, Sheri J. (1998) The Impact of Child Witness Demeanor on Perceived Credibility and Trial Outcome in Sexual Abuse Cases. *Journal of Family Violence* 13(2), pp. 187-195.

Sas, Louise. (1999) *I'm Doing My Job in Court, Are You?* London: Child Witness Network Agencies.

Sas, Louise, Hurley, Pamela, Hatch, Alison, Malla, Sue, and Dick, Trish. (1993) *Three Years After the Verdict.* London: London Family Court Clinic Inc.

The Nova Scotia Department of Justice. (2000, March) *Response Submission, Child Victims and the Criminal Justice System: A Consultation Paper.*

Tuttle, Laurie. (2000, Summer) Youthful Witnesses in Domestic Violence Court: A Crown's Perspective, *Viva Voce*, London Family Court Clinic., 3(2), 4.

Wachtel, Andy. (1997) *Children & Other Vulnerable Witnesses: A Guidebook on Court Design*, British Columbia: Ministry of Attorney General.

Bibliography

An extensive bibliography may be found in the complete study report, on the Nova Scotia Department of Justice web site.

APPENDIX A

SAMPLE QUESTIONS FOR A JUDGE CONDUCTING AN INQUIRY INTO THE OATH

1. Could you please tell me your name?
2. How old are you?
3. When is your birthday?
4. How old will you be on your next birthday?
5. Do you go to school?
6. What grade are you in?
7. What do you like best at school?
8. What don't you like at school?
9. What is your favourite television show to watch?
10. What is your favourite food?
11. Do you have any pets?
12. Do you know why you are here today?
13. Do you know what my job is?
14. People come here to tell me things that happened or things that they saw, I would like your help?
15. When people come to court, it is very important that they tell the truth. Tell me something that is true.
16. Why is it important to tell the truth in court?
17. If I said that my robes are green, is that a truth or a lie?
18. Is it a good thing to tell the truth?
19. Is it a bad thing to tell a lie?
20. Is it better to tell the truth or better to lie?
21. If you told a lie at school and the teacher found out, what could happen?
22. Do you know what a promise is?
23. Have you ever made a promise? Have you every broken a promise?
24. Do you know what a bible is?
25. Have you ever learned about God?
26. If someone promises to do something, do you think they should do it?
27. If you made a promise to tell the truth to God, would that be a big promise or a little promise?
28. What would happen if you broke your promise?
29. What do you think might happen if people do not tell the truth in court?
30. Do you know what an oath is?
31. If you put your hand on the bible and made a promise to tell the truth, would that be a special promise?
32. What does it mean when you "swear to tell the truth"?

Sas (1999), p. 79.

NOVA SCOTIA
DEPARTMENT OF JUSTICE
VICTIMS' SERVICES DIVISION

Child Victims and the Criminal Justice System

Child Victim Witness Program
(March, 1993 – June, 1999)

Study Report

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"A hundred years from now it will not matter
what my bank account was,
the sort of house I lived in, or the kind of car I drove....
But the world may be different because I was important
in the life of a child"

On a card received from a client,
Victims' Services Regional office, New Glasgow

EXECUTIVE SUMMARY

This research on the experience of child victims in the criminal justice system in Nova Scotia has contributed to a body of research both in Canada and internationally that has examined ways to minimize the trauma to children that is associated with testifying about their own victimization.

There is valid reason to continue to examine the experience of child victims and the services currently available to them within the criminal justice system. Research has revealed ways to improve children's experience so they can provide accurate evidence. At the same time there are continuing calls for a consideration of "the best interests of the child" which may conflict with the prosecution of the case. For example, one of the most difficult decisions from a Crown's perspective is often whether to call a youthful witness at all, due to their level of anxiety or reluctance to testify (*Viva Voce*, Summer, 2000, p. 4).

The means of examining children's experience in the criminal justice system in Nova Scotia was to look at data compiled by the Child Victim Witness Program (CVWP) since its inception in 1994, with specific focus on those cases where children testified before the courts.

Objectives of the CVWP are to increase the child's knowledge about court procedures and the roles of key players, address the child's fears and reduce the anxiety associated with giving evidence, provide specific assistance in building communication skills with a particular focus on the need to be acquainted with the kinds of questions associated with cross-examination, and offer emotional support to the child and family.

The research examined demographics for the total of 1,682 child victim cases[1] referred to the Victims' Services Division from March 1, 1993[2] to June 30, 1999, services provided and court process on 453 cases closed between April 1, 1998 and June 30, 1999, and information obtained from interviews with parents as well as Victims' Services Support Workers who had provided a variety of support services to child victims during the period under study.

Results echoed earlier research studies in many ways.

Over two-thirds of the total sample involved female children. Where information was available, 81% of children knew the accused either as a family member, a trusted adult, or a peer. Girls were nearly twice as likely as boys to be victims of sexual assaults, while boys were much more likely than girls to be victims of physical assaults.

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[1] The CVWP has a mandate to serve children who are either direct victims of a crime or witnesses to another person's victimization. A total of 2,050 cases were referred. This study is limited to those 84% of cases where children were direct victims.

[2] The study includes 62 cases that were opened prior to the establishment of the CVWP, and were transferred to the program for ongoing service.

Adolescents have consistently formed the largest group of service users; just over half of children were between the ages of 12-15 years of age at the time of intake. There is a continuing challenge to adequately serve older adolescents, as the research literature and available resources focus particularly on the needs and vulnerabilities of young children.

The following findings are related to the 453 cases closed between April 1, 1998 and June 30, 1999. In 251 cases (60% of cases cleared by charge) children received court preparation. From information available on these 251 cases:

- the average time from date of arraignment to preliminary or trial was 8.7 months; cases remained in the criminal justice system, on average for 9.3 months from arraignment date to final disposition;
- while each of the children lived with mounting anxiety over a lengthy period of time at the prospect of testifying, just over half actually testified;
- just over half of cases resulted in a finding of guilt, either through guilty plea or conviction; nearly one-quarter of cases were either stayed, withdrawn, or dismissed;
- on average, those cases that were stayed, withdrawn or dismissed took 10.9 months to reach their final determination;
- convictions occurred in just over half of cases where a verdict was obtained at trial;
- 42% of all guilty pleas were entered after the child had been prepared to testify; in some of these cases the guilty plea was entered on the day of trial;
- probation was the most common disposition, ordered in 80% of cases; a term of custody was handed down in 25% of cases;
- application was made to the Criminal Injuries Compensation Program in only 30% of cases where children received court preparation.

Interviews with seven Support Workers who provided service to children in the majority of cases during the time period, and with a limited sample of 19 parents, provided qualitative information on children's experience prior to, and on the day of trial. Most children met with the Support Worker at least three times, and nearly half met with the Crown more than once before going to court. It was further determined that:

- there are areas specifically related to the CVWP that require further improvement: curriculum resources, Support Worker training, and follow-up services;
- there are only four courthouses in the province where separate, child-appropriate waiting areas are available as they are only provided where Victims' Services offices are located,

- children are asked to be at the courthouse for 9:30 am although other items on the court docket are often dealt with prior to hearing the case in which the child is to testify; thus children must often wait to testify for lengthy periods at the courthouse before being called to testify;

- many police, Crown attorneys, and judges are aware of, and sensitive to the difficulties children experience; defence lawyers are viewed as much less sensitive;

- the currently required competency hearing is reported as awkward and confusing for children;

- testimonial aids are seldom used in Nova Scotia; children's greatest fear of having to face the accused in the courtroom is thus often realized.

Parents and Support Workers offered clear suggestions for changes to increase children's comfort and lessen their trauma while participating in the adult environment of criminal court. To best serve the administration of justice, these, and other considerations emerging from the study were considered in the context of examining the conditions under which children may be expected to provide the most accurate testimony.

The report advances several recommendations and suggests implementation by a committee representing the Department of Justice, the Public Prosecution Service, and child welfare agencies. The report concludes that it is the responsibility of the criminal justice system to continue to grapple with the "twin, but potentially opposed aims" (Wachtel, 1997, p. xiii) of supporting child witnesses and ensuring the right of the accused to a fair hearing.

1.0 INTRODUCTION

1.1 Background

The Child Victim Witness Program (CVWP), one of the core programs offered through the regional offices of the Victims' Services Division, extends a variety of services to child victims of crime and their supportive adults. In addition to general information and support, the Program provides a specialized, non-evidentiary court preparation curriculum to prepare and support child victims or witnesses who testify in criminal court proceedings.

The overall purpose of the Program remains consistent with those of the pilot program which was launched in January, 1994. The objectives of the pilot were to:

- increase the child's knowledge about court proceedings and roles of the key players and to assist the child's understanding of how the court process unfolds;
- address the child's fears and reduce the anxiety associated with giving evidence;
- provide specific assistance in building communication skills with a particular focus on the need to be acquainted with the kinds of questions associated with cross-examination;
- offer emotional support to the child victim/witness and family.

The pilot phase concluded in March, 1996, and a summary report was prepared in June of the same year. The report included a number of recommendations. It was suggested that provision be made for:

- the development of case management guidelines to ensure that cases involving child complainants are processed within fixed time lines;
- child-friendly, appropriately equipped spaces be included in the planning of all court facilities to ensure the privacy and comfort of child victim witnesses and their supportive adults;
- scheduling of cases involving child victim witnesses as the first matter of the day, with the child being one of the first witnesses to be called;
- a Public Prosecution Specialist to be identified, to whom specialized training would be made available, in each Crown Region of the province;
- experts in the area of children's communication be invited to participate in Judicial professional development;

- a forum be established to complete the study of the cases contained in the pilot, and to make recommendations concerning case management and specialized prosecution services.

An independent evaluation of the program (Collins Management Consulting and Research Ltd., 1996) was completed as part of an overall evaluation of the Victims' Services Division in September, 1996. The evaluation found the program was an overall success. Although it was determined there were no major weaknesses in the program design or structure, limitations were cited in relation to lack of program materials for adolescent males[3], lack of visibility of the program, and some resistence to the program by Crown and judges. In spite of the latter limitation, 95% of staff consulted reported positive changes in how the Crown worked with child victims as a result of the program. The evaluation recommended an activity-based fixed cost approach to service delivery, adjustments to the curriculum to meet the needs of older adolescents, an enhanced data collection and reporting system, and increased efforts to improve program visibility.

Modifications have been made to the program based on the results of the pilot and the recommendations of the evaluation. For example, adjustments have been made to the curriculum to accommodate the needs of older adolescents who formed the largest group of service users, and adaptations have been made to the data collection system to support the management and operation of the program. The program has now been fully integrated as a core service of the regional Victims' Services offices.

1.2 Court Preparation Curriculum[4]

Non-evidentiary court preparation services offered to children/youth and their supportive adult through the Child Victim Witness Program in Nova Scotia include the following:

a) Information about the criminal justice system
b) Assistance with application to the Criminal Injuries Compensation Program(CIC)[5]
c) Support to parent/legal guardian/supportive adult
d) Referrals to other services in the community
e) Liaison with the Crown attorney
f) Witness preparation
g) Assistance with filing of Victim Impact Statements

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[3] A surprising result of the pilot program had been the finding that the largest group of clients was between 12 and 15 years of age. Printed materials in use at that time were directed at an age group below this primary service group.

[4] The Child Victim Witness Program curriculum, definition of terms, and a description of resources used are included as Appendices A and B.

[5] Effective June 8, 2000, this program provides financial assistance for counselling only, and has changed in name to the Criminal Injuries Counselling Program.

All children referred to the Victims' Services Regional offices who are either direct victims or witnesses of a crime, and who are under the age of 16 years[6] are eligible for the program. Consent to receive the court preparation curriculum must be given by the child's legal guardian. Though statistics are compiled for each child, children in the same family receive services together. Only in exceptional circumstances will siblings receive preparation separately.

The first component of court preparation is implemented approximately six (6) weeks prior to the actual date of testimony, and consists of an information and rapport-building session in the child's home, and in the company of the parent/supportive adult. The content tools have been adapted from those originally used in the pilot, to adjust to the average age of children found to participate in the program. The second session is conducted in the courtroom. The session may be held in consultation with the Crown attorney, and involves a courtroom tour and a role play giving the child the opportunity to listen to complex questions about a neutral topic such as a day at school or weekend activity. Liaison with the Crown attorney is arranged and a meeting is scheduled. An additional booster session may be offered when a child is experiencing significant stress at the prospect of giving testimony. Court accompaniment is offered to each child. Following the child's actual testimony, a debriefing session occurs within forty-eight (48) hours, either by telephone or a face to face interview. Additionally, the child may be provided assistance in making application to the Criminal Injuries Compensation Program or in preparing a Victim Impact Statement at the conclusion of the trial and prior to sentencing. The final component of the program is a closure session to identify and address any outstanding issues and unmet needs.

1.3 Program Operation

The operation of the Child Victim Witness Program has evolved over time. During the pilot program services were offered from the Head Office of the Victims' Services Division by a social worker seconded from the Children's Aid Society of Halifax to coordinate the development of the program. Following completion of the pilot in March, 1996, it was determined that local delivery of the program in the child's community was an important element of service delivery. As the program became incorporated as a core service of the regional Victims' Services offices, services were provided by Victims' Services Officers and a roster of 38 trained child consultants (Activity Report, 1996 - 1997). In the 1997-98 fiscal year the consultant model of program delivery was replaced, and services are now provided by specially trained, fee-for-service Victims' Services Support Workers. In addition to being more cost-effective (Collins Management Consulting and Research, Ltd., 1996), this model has facilitated increased coordination with other services by placing a priority on hiring Support Workers from existing victim-serving organizations (Activity Report, 1997-1998).

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[6] During the pilot program children under the age of 18 were eligible to participate in the program. The age of eligibility was reduced to under 16 during the 1997/98 fiscal year, to reflect the age of a child as defined by the Children and Family Services Act, Province of Nova Scotia. In circumstances of need based on ability, adults may be eligible for the specialized services of the program.

1.4 Research Question

The current study continues the preliminary examination of cases begun during the pilot phase of the program. As noted in the report of the pilot project, the increase in numbers of child complainants in Nova Scotia suggests the *Criminal Code* amendments intended to facilitate children's testimony have been effective. The associated risk inherent is that without an ongoing assessment of current practice, children may become revictimized in an adult court process. In keeping with the mandate of the Victims' Services Division, an anticipated outcome of the current study is to propose recommendations for policy formulation/revision related to children in the justice system.

The research design permitted an examination of the following general research questions:

1. What does the current literature contribute to an understanding of the experience of children in the justice system?

2. What can we know of the experience of children who have participated in the Child Victim Witness Program in Nova Scotia through analysis of data collected by the program?

3. What is the status of other specialized child victim witness service programs in Canada?

4. What are the needs of child victims in relation to the services available to them within the criminal justice system?

It is anticipated the current analysis of data will contribute to an ongoing discussion among members of the justice system, toward a lessening of the trauma child victims experience through their participation as witnesses under an adversarial model.

This research may further identify problem areas that exist that may increase children's trauma and impede their ability to be accurate witnesses, or where the justice system fails to address the special needs of child victim witnesses.

2.0 REVIEW OF CURRENT LITERATURE

2.1 Changes in Legislation[7]

With the release of the Badgley Committee Report in 1984, an increased awareness of the prevalence of child abuse in Canada, and the subsequent passing of Bill C-15 in 1988, significant changes have been made to facilitate children's participation in the criminal justice system. Prior to theses changes a number of the rules of evidence failed to address the particular needs of child victims. The

[7] For a detailed overview of the major reforms in Canada, a consideration of judicial application of relevant legislation, and the impact of these reforms see (Bala, 1995; Bala, Publication pending; Sas, Hurley, Hatch, Malla & Dick, 1993).

testimony of children was treated with suspicion. Children "of tender years" were presumed incompetent to testify, and were required to undergo an inquiry to determine whether they understood the nature of an oath. Unsworn testimony given by a child required corroboration which was rarely available due to the fact that crimes involving children usually occur in privates places without witnesses. The developmental stages of young children were not accommodated; interviewing techniques involving repeated questioning and language beyond their years, made the courtroom environment a foreign and unwelcoming place for children.

The legislative changes enacted in Bill C-15 enabled more children to testify. The requirement of corroboration was abolished, as was the distinction between sworn and unsworn evidence. Rather than being required to understand the nature of an oath, children were now only required to promise to tell the truth (*Canada Evidence Act*, Section 16[3]), upon demonstrating the ability to distinguish truth from a lie. Children were now permitted to testify from behind a screen or from another room via closed-circuit television if these provisions were deemed by the court to be necessary to obtain the child's accurate testimony. Subsequent changes to the legislation in 1993 permitted a support person to be present when a child testified, and prohibited an accused who represented himself to cross-examine a witness under the age of fourteen.

These changes, successful in giving the issue "the attention it deserves" (Sas, Hurley, Hatch, Malla & Dick, 1993, p. 217), occurred as a result of significant scientific inquiry. Ceci and Bruck (1995) who together have produced a number of research studies on the reliability of children's testimony, make visible the "emotional battle ... [which continues to be] waged in our nations' courtrooms, universities, and living rooms" (p. 1). At issue is the subject of countless research studies of the past ten years on the credibility of children's testimony, upon which the criminal justice system must often singularly rely in prosecuting sexual abuse cases. Researchers have examined and debated children's "inherent" unreliability, egocentricity, suggestibility, inability to distinguish fact from fantasy, false allegations, propensity for recantation, and moral competence. Whether children are believed to be inherently reliable witnesses, or conversely, vulnerable to erroneous suggestions and leading questions, has determined the content and format of interviewing techniques, corroboration requirements, and the necessity of understanding the nature of an oath prior to giving sworn testimony[8]. These questions, though beyond the scope of the present study, provide a background to an examination of the data and the experience of children who testify in criminal justice trials in Nova Scotia.

Recent changes to the *Criminal Code*, proclaimed in force on December 1, 1999, prohibit personal cross-examination of victims of sexual or violent crime up to 18 years of age (from the previous 14) by self-represented accused persons, and provides for mandatory publication bans where the Crown, complainant or witness of a sexual offence under the age of 18 applies for an order (*Federal Legislation Strengthening the Voice of Victims of Crime*, 1999). Currently, the constitutionally guaranteed right of the accused to a fair trial is protected through the government funded appointment of legal counsel for the purpose of conducting the cross-examination.

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[8] The Department of Justice Canada (1999) consultation paper *Child Victims and the Criminal Justice System* includes a question on whether child witnesses should be placed on the same footing as adult witnesses by eliminating the requirement for a competency hearing.

2.2 Statistical Overview

Although the majority of victims of violent crime in 1997 were adults over the age of 18 (76%), youths (12-17) and children (under 12) accounted for a disproportionate share of victims of sexual offences and kidnapping/abductions (Canadian Centre for Justice Statistics, 1998, October; *Family Violence in Canada*, 1999). Statistics Canada data reveal that 51% of all sexual assaults in Canada in 1993 occurred to girls under 18 years of age (Canadian Centre for Justice Statistics, 1996). In an Environics report of 1998 crimes against children were most often identified by the Canadian public as an area of great concern, with the level of concern increasing slightly over the previous four years (Public Opinion on the Justice System, 1998).

No single source of data reveal the incidence of physical and sexual assaults against children in Canada (*Family Violence in Canada*, 1999). Data from police-reported incidents provides information about the extent of reported cases and does not include unreported cases that are never investigated. To more accurately understand the extent and dynamics of child abuse in Canada, Health Canada has launched a national *Child Maltreatment Surveillance Study* (Phaneuf, 1999) that addresses 22 maltreatment codes reflected in cases of alleged abuse and neglect reported to child welfare agencies.

Statistics Canada data on reported incidents in the past decade were reviewed by the researcher. In a report devoted to children as victims of violent crime, the Canadian Centre for Justice Statistics (1991) reported, based on data submitted from seven police forces, that of all violent crimes committed against children under the age of 11 years, one half were for sexual assault violations, 15% for other sexual violations, 28% for non-sexual assaults and 3% were abductions. The remaining 4% included all other violent violations such as attempted murder, robbery and child abandonment. Forty-four percent of the victims were boys and 56% were girls.

There were gender differences noted in the data in relation to specific offences. Just over two-thirds of child sexual assault victims were girls and just under one-third were boys, while boys were reported to account for just over 70% of victims of other non-sexual assaults. In 81% of all sexual assault cases the accused was known to the child. Of these, 24% were parents, 17% were other family members, and 40% were acquaintances. Girls were more likely than boys to be sexually assaulted by a parent or other family member while boys were more likely to be victimized by an acquaintance than girls (Canadian Centre for Justice Statistics, 1991).

Statistics Canada data on teenage victims of violent crime between 1988 and 1991 reveal that teenagers (age 12-19, comprising 11% of the 1990 Canadian population) are at a greater risk of becoming victims of violent crime than are other age groups. Data from 13 police departments indicate that teenagers and children were victims of sexual assault more often than adults (of every 10 sexual assault victims, 4 were teenagers and 4 were children). As victims' age increases so does their likelihood of being victims of assault; the inverse is true of sexual assault. The characteristics associated with younger teenage victims (12-15) were found to be similar to that of children younger than 12; the victimization of older teenagers was more similar to adult victimization (Canadian Centre for Justice Statistics, 1992).

In more recent statistics examining physical and sexual assaults against children and youth in the family, it is revealed that in 1997 children under 18 were the victims of 23% of assaults reported to police agencies. While children represented 19% of all physical assault victims, this percentage was much greater (60%) for sexual assault victims. While the majority of assaults against children were committed by non-family members, family members were accused in 23% of all assaults against children. The percentage is greater (33%) for sexual assaults than for physical assaults (20%). Girls were the victims of physical assaults by family members more often than were boys (29% and 14% respectively). In the case of sexual assaults by family members, girls and boys under the age of 18 years were victims in roughly similar proportions (32% and 29% respectively) (*Family Violence in Canada*, 1999)[9].

Differences were found in the ages at which girls and boys were found to be a greatest risk within the family. In 1997 a higher proportion of girls were sexually assaulted at older ages than were boys. The number of sexual assaults peaked between the ages of 12 and 14 for girls and between the ages of 3 and 6 for boys. Physical assaults increased with age for both girls and boys, with the frequency peaking at 17 for girls[10] and 14 for boys (*Family Violence in Canada*, 1999).

Data was compiled by Statistics Canada in response to the attention paid in recent years to the issue of court delays. Processing efficiency was measured in an assessment of the number of months needed to dispose of a court's pending case inventory and the elapsed time of cases. It was determined that in Nova Scotia (1996-97) just over four months were required to process pending case inventories, a time period not considered to represent a significant delay. During the same time period nationally, 20% of all cases were dealt with in a single appearance. Most cases (58%) were disposed of within four months of the first court appearance, with only 9% taking longer than one year (Canadian Centre for Justice Statistics, May, 1998).

2.3 The Literature

A review of the literature was conducted to determine current trends since the preparation of the report of the Child Victim/Witness Pilot Project in 1996. It is evident from the review that studies of recent years have built upon the significant foundation of analysis during the decade roughly spanning 1985 - 1995.

Since the 1984 release of the Badgley Committee Report and the subsequent research conducted over the intervening years, public awareness of child abuse has increased, as has professional recognition of the problems children experience in testifying in criminal courts (Bala, Publication pending). Changes in legislation and increased training and awareness in ways to assist children have resulted in a recognition that children can be effective witnesses, and in an increased number of prosecutions in child abuse cases. There are issues however that require continued examination.

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[9] This statistic differs from earlier Canadian Centre for Justice Statistics (1991) data for children under the age of 11 years that indicated girls were more likely than boys to be sexually assaulted by a parent or other family member.

[10] Spousal assault accounted for 40% of physical assaults against girls aged 17. See *Family Violence in Canada*, 1999, p. 29).

Bala notes that debate ensues, for example, as to whether the process that has increased the sensitivity of the justice system to the needs of children has compromised the integrity of one of the cornerstones of the justice system in the presumption of the innocence of the accused. In addition, discussion has been revived in relation to weighing the desirability of children testifying because it is beneficial to the case outcome against the perceived negative psychological impact that testifying entails.

The current literature review was able to take advantage of previously written reviews that have focused on the major reforms to statutory and judge-made laws in Canada, children's suggestibility, and the emotional consequences of children testifying.

2.3.1 Multi-disciplinary Response

Alexander (1995) discusses cases in the United States justice system where convictions have been reversed because of improper investigatory procedures or expert testimony by child protection workers. While the author deems the responsibility for proper questioning of expert witnesses lies with the prosecutor, child protection workers must be held responsible for the conduct of improper investigations that have resulted in convictions being reversed. Research on the Child Sexual Abuse Accommodation Syndrome[11] is called for, as well as an enhanced understanding of the limits of the role of child protection workers in the investigatory process and court proceedings.

Oxman-Martinez, Rowe and Straka (1998) examine the complex phenomenon of the lengthy disclosure process of intrafamilial child sexual abuse in order to improve child welfare system intervention outcomes. The authors claim that child protection and judicial agencies give weight to disclosures that most closely fit the desired ideal of a single, immediate, and non ambivalent revelation[12]. They cite studies indicating the disclosure process however is complex and slow, often including a series of denials, revelations, and recantations, and often occurring after the child has experienced the abuse for a lengthy period of time. A misunderstanding of this process or a systemic demand for a more linear, unambiguous and immediate process can lead to a premature disposal of child sexual abuse cases. The authors suggest "there is a timing dichotomy between the child's normal disclosure processes and the timing pressures driving the child welfare agencies' response" (p. 57). A much more responsive investigation process is called for, as the inexperience of new workers and lack of training in the complexities of the disclosure process are cited as contributing

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[11] The Child Sexual Abuse Accommodation Syndrome is a five stage model, introduced by Dr. Roland Summit, to explain the long delays before disclosure and the recantations of allegations that are often associated with intrafamilial sexual abuse cases. The child, receiving veiled or overt threats from the abuser about what will happen if the abuse is disclosed, is placed in a position of protecting the family. The child accommodates the abuse by shifting blame from the abusive adult to her/himself. See Roland C. Summit, Thomas w. Miller, and Lane J. Veltkamp, *The Child Sexual Accommodation Syndrome: Clinical Issues and Forensic Implications* (Madison, CT: International Universities Press, Inc., 1998).

[12] See also Jessica Liebergott Hamblen and Murray Levine, The Legal Implications and Emotional Consequences of Sexually Abused Children Testifying as Victim-Witnesses, *Law and Psychology Review* 1997 (21), pp. 151-152 for a discussion of juror's perception of children's truth telling in relation to length of time prior to disclosure.

factors in under-recognition of abuse and the early closure of cases. The authors particularly note the need for a better understanding of the dynamics of intrafamilial male child abuse.

Recent recommendations have been made for improvements in system response, including specialized police units to investigate alleged child abuse cases, multi-disciplinary teams to consult (Cairns, 1999), and an emphasis on neglect that has historically been missed (Garneau, 1999)[13]. Cairns, Deputy Chief Coroner, Public Safety Division, Ontario Ministry of the Solicitor General, maintains difficulties with legislation that prohibit multi-disciplinary sharing of information need to be broken down. It is recognized that currently multi-disciplinary work is done after the death of a child when a fatality review is conducted. Anglin (1999) suggests that currently child welfare is welfare in the context of the law, with a legal discourse predominating over child welfare. Risk assessment has resulted as a growth industry, as the question becomes an assessment of the risk of leaving the child in the family rather than whether abuse has actually happened.

Eastwood (1999), Assistant Crown attorney, Ottawa-Carlton, East Region, and Director of Crown Operations, Criminal Law Division, Department of Attorney General, maintains information sharing is critical and offers an example of current inter-disciplinary practice. In the Ottawa-Carlton region a Child Abuse Team meets twice monthly and includes workers from Child Protection, Police, Crown, and Victim/Witness Assistance programs. In reviewing cases the team considers such issues as whether a screen is being used, if the child has concerns about testifying, whether an application for hearsay evidence is being granted, whether the child is receiving counselling, and whether there is a child protection history.

A Department of Justice funded study (Ryan, 1999) was recently conducted to determine the feasibility of linking criminal justice process data concerning offences involving children in the province of British Columbia. With the intention of gauging the effectiveness of the system response, and to inform the development of interventions to protect children, the study determined the databases of Police, Crown, Victims' Services, Courts, and Corrections fell far short of providing the information required to follow cases through the system. The study concluded "current information systems can't provide an integrated understanding of the system's response to child abuse and neglect, or the effectiveness of the system's efforts to protect children" (p. 6). As the ultimate aim of the study was the development of nationally comparable data, several areas of improvement for national information collection were suggested:

- the development of nationally agreed upon definitions of child abuse and neglect
  - ⇨ possibly through amendments to the *Criminal Code* establishing specific offences relating to child abuse and neglect;

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[13] Grant Garneau, a lawyer and member of the Child Death Review Committee for the New Brunswick Department of Health and Community Services raises the question of when chronic neglect becomes criminal, and whether earlier involvement of police to assess for criminality would be preventative. The Department of Justice Canada (1999) discussion paper, *Child Victims and the Criminal Justice System*, includes a question on whether the *Criminal Code* should include an offence for extreme forms of child neglect.

- identification of the types of information essential to an understanding of the processing of child abuse and neglect offences

  ⇨ to inform modifications to provincial electronic information systems, or to form the basis of a new data collection or survey tool that specifically targets information relevant to the processing of child abuse and neglect cases;

- efforts made to improve initial data collection methods to identify all potential cases

  ⇨ collection of basic victims, accused and offence information at the initial reporting stage, possibly through widespread implementation of the *Revised Uniform Crime Reporting Survey* (p. 6).

2.3.2 The Reliability of Children's Testimony

Myers (1995) cautions that perceptions of children's credibility reached a highpoint in the mid 1980s, and we are entering a new era of skepticism. Reasons cited for this assessment include perceived skepticism of popular media accounts during the 1990s in comparison to the largely positive coverage of a decade earlier and the negative portrayal of children in some psychological literature. Though he acknowledges media coverage has not been universally negative, reports that compare modern child protection investigative measures to the 17th century Salem witchcraft trials, or that suggest the promotion of greater support for child victims is a response to a child abuse hysteria, have contributed to an evolving skepticism[14]. Additionally he claims responsible professionals, though properly critical of the failures of the child protection system, by placing an "unduly negative spin on portions of their writing ... [have created the] potential to damage legitimate efforts to protect children" (pp. 7-8). He cites, in particular, the 1993 work of Ceci and Bruck which he suggests creates the impression that "many, if not most, interviews are conducted improperly and that children's descriptions of sexual abuse are often false" (p. 11).

Ceci and Bruck (1995) respond by stating "[t]o attempt to dismiss any parallel between *some* modern trials and the Salem trials is to deny the obvious" (p. 303), that some modern trials share a similar pattern of strongly suggestive interviews extending over long periods. They acknowledge that although the literature is skewed toward case studies that illuminate weakness, these are probably not the most common types of cases, and that much of the time children's testimony is reliable and credible. They have intentionally focused their efforts on the weaknesses of children's testimony maintaining these are less widely understood than their strengths.

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[14] See also Roger J. R. Levesque, Prosecuting Sex Crimes Against Children: Time for "Outrageous" Proposals?, *Law and Psychology Review* 19 (1995), p. 80, for a discussion of what he terms a growing "social problem fatigue", and the roots of an unexpected backlash that characterizes current child protection efforts as modern witch hunts aimed at ruining men and families.

This controversy illuminates the thrust of continuing research. Ceci and Bruck maintain "we are still a long way from possessing perfect knowledge, from predicting which children will succumb to suggestions and which will not....[a]nd ... aside from the child's age, we have little consistent empirical data concerning the characteristics that differentiate these immune children from their peers who are more vulnerable to the pressures of a biased interview" (p. 300). This claim is confirmed more recently by Brady, Poole, Warren & Jones (1999), who state "the goal of postdicting the accuracy of children's responses remains elusive" (pp. 47-57).

Numerous studies that impact on children's credibility were identified in the literature produced since the conclusion of the Child Victim/Witness Pilot Project. Studies have focused on children's memory and suggestibility, communicative competence, identification accuracy, the effects of closed-circuit technology, and the implications for hearsay testimony of mothers' memory accuracy.

Peterson (1996) attempts to overcome methodological flaws in earlier research on children's memory of traumatic real-life events, and to complement research on suggestibility that determined children can be coerced or misled into providing false information. Peterson designed research to examine the reliability of children's information when they are not coerced or misled. The subjects were children, and parents of children who were taken to a hospital emergency room for real-life injuries such as broken bones and lacerations requiring suturing. The study found that pre-school aged children were reliable informants about these stressful experiences, accurately recounting details of their injury and of their medical treatment, i.e., the kinds of details likely to be most important in actual real world cases. The children were less accurate in relation to the first person who responded to their injury and the secondary people involved. Peterson hypothesizes that children's inaccuracies in this regard are attributable to their preoccupation with internal emotions immediately after the injury occurred, making the processing of external events more difficult. Future research is called for that incorporates the child's state when the to-be-remembered event occurs. The major conclusion of the study is that "not all errors should be treated as equivalent. Errors on details such as the time of the injury, who responded to them when they were hurt, or secondary bystanders, should not be equated with errors about what happened to CAUSE the injury" (p. 9).

Subsequent research (Weilenman, 1998) has acknowledged the controversy surrounding the issue of the effects of emotional state on children's memory. Weilenman, though predicting there would be a significant and positive relationship between anxiety and recollection, found no significant correlation. Thompson (1998), in a study of the maintenance of knowledge by children over long retention intervals, found results suggesting "that the affective component of personal memory decays; participants lose the emotional aspect of their memories over time, resulting in more neutral judgements of an events' (*sic*) pleasantness or unpleasantness as the retention interval increases" (Abstract).

Goodman, Redlich, Qin, Ghetti, Tyda, Schaaf, and Hahn (1999), in a comprehensive review of research evaluating eyewitness testimony in children and adults, note that "several individual-difference variables, including parent-child interaction style, children's temperment, and children's physiological reactivity have been identified as potentially important in affecting children's stress levels during the [to-be-remembered] event and their memory performance later" (p. 227). They

note the question of whether the stress involved in criminal events inhibits memory remains open to debate. Further, they suggest this inhibition may be related to quantity of memory as opposed to the accuracy of what is remembered.

Ricci and Beal (1998), in a study designed to examine if children's eyewitness memory might be enhanced if the crime episode occurred within the context of a familiar event, conclude at this point there is insufficient evidence to expect "that children who observe a crime in a familiar context such as their home or child care center would necessarily remember more than children who are in a less familiar situation" (p. 315). Details may be remembered quite well however if children have past experience with the event, as may be the case with repeated abuse. They suggest it is clear that children should be interviewed as soon as possible after the event. Though specific and forensically relevant details may not be remembered by young children, there is evidence to suggest that what they did remember was generally accurate.

Saywitz, Snyder, and Lamphear (1996) reported a procedure of narrative elaboration. The technique, incorporating retrieval strategies to improve recall, teaches children to "organize retrieval efforts according to story grammar categories" (p. 202), employs supplemental picture cues to aid in revealing additional knowledge. The procedure, employed with second-graders, reportedly produced more fully elaborated descriptions of past events, without the use of leading questions. It is perceived to be potentially beneficial to guide recall efforts in pretrial therapy without jeopardizing the reliability of children's testimony, and in preparing children for courtroom examination. It is cautioned however, that the procedure may not be useful for very young children, for situations of multiple interviews, or for memories of highly emotional events.

Melnyk (1997) examined the use of drawing as a reminder technique with preschoolers. The study concluded children who drew remembered more than those who didn't, but also provided more false reports. Yet they also had less difficulty differentiating between true and false reminders about the event witnessed. A follow-up study after 15 months revealed significant misinformation indicating that suggestions had a long term effect on the children's event memory.

An eye-witness identification procedure designed for children by Queen's University psychology researchers (Lindsay and Pozzulo, 1997), is intended to increase the accuracy of children who are asked to identify a suspect where the child was either the victim or a witness. At that time researchers claimed they were close to finding one reliable procedure that would reduce children's tendency to guess when asked to identify a suspect in a police line-up even when the right person wasn't present[15].

There is a clear need for ongoing research. Saywitz (1995) noted in an examination of the elements of an optimal environment for children's remembering and communicating, that little is known of the effect on children's memory of variables such as self-image, coping patterns, and social support. It is noted that child witnesses vary in their approach to preparation, with some being highly resistant

[15] Goodman et al. (1999, p. 242) note that "in general, children have a more difficult time with target-absent photo lineups and often do not seem to understand that the person of interest (i.e. the perpetrator) may not be present".

and others extremely motivated and eager to learn about the legal system. Further, the effects of the symptoms of depression and Post Traumatic Stress Disorder on motivation and retrieval processes remains to be explored. She notes that innovative methods of improving children's testimony that are imminent require further testing.

2.3.3 Interviewing Child Witnesses

The report of the Child Victim/Witness Pilot Project in Nova Scotia (McPherson, 1996) outlines the significant issues raised in the literature related to the reliability of children's testimony, specifically in relation to young children. The report notes the suggestibility of children can be minimized through sensitive questioning techniques. Further, several factors are identified that contribute to children's inconsistent statements. Research continues in an effort to increase the reliability of children's testimony while balancing forensic and therapeutic needs and ensuring the rights of the accused.

Walker and Nguyen (1996) note United States statutes offer little guidance related to appropriate methods for interviewing children. The Nova Scotia Department of Community Services, citing material from John C. Yuille, University of British Columbia, has instituted a manual for "Step Wise" investigative interview techniques involving child protection workers and police. The design of the Step Wise Interview incorporates three distinct goals:

- to minimize any trauma the child may experience during the interview;
- to maximize the amount and quality of the information obtained from the child while, at the same time, minimizing any contamination of that information;
- to maintain the integrity of the investigative process for the agencies involved.

The material examined in this review of the literature focuses exclusively on young children. Techniques discussed are largely those incorporated in the protocol currently in use in Nova Scotia.

Continuing research confirms the finding reported in the report of the Child Victim/Witness Pilot Project in relation to the burden of responsibility for the competency of children's testimony. In noting "[r]ecent research clearly shows that the skill of the interviewer directly influences whether a child relates a true memory, discusses a false belief, affirms details suggested by others, embellishes fantasies, or provides no information at all" (p. 1588), Walker and Nguyen offer a comprehensive list of do's and don't's for the legal profession in interviewing child witnesses:

<u>The Do's</u>:

- Prepare for the Interview.
  Understand some basic principles of child development, and differences in language comprehension and usage between child and adult.
- Create an appropriate climate for the interview.

A neutral environment that is warm, yet professional, will be un-intimidating and most likely to produce accurate reports from children.

- Use developmentally appropriate language.

  - ⇨ Use active voice.
    Children have difficulty comprehending the passive voice, and may not understand the statement, for example: "You said the blue car *was hit* by the red car".

  - ⇨ Avoid negatives.
    Phrase all questions positively. Instead of asking, "Is it not true that you went to the store?" say, "Did you go to the store?"

  - ⇨ Include only one query per question.
    Children do not know how to answer if the answers to a multiple question's subparts are not the same.

  - ⇨ Use simple words.
    Children simply will not understand big words and legal jargon.

  - ⇨ Use simple phrases.
    Avoid "front-loading" questions, i.e. using a number of qualifying phrases before asking the crucial part of the question.

  - ⇨ Use the child's terms.
    It is important to define each child's vocabulary. Once the terms have been clearly defined, use the child's words to describe people, actions, and objects.

  - ⇨ Be alert to any signals of comprehension difficulty.
    Children are not likely to indicate to adults when they do not understand a question. In fact, they are generally taught to answer questions, even if they do not comprehend them.

- Establish rapport.
  Recent research (Lamb et al., cited in Walker & Nguyen, 1996, p. 1593) reported that when child abuse interviewers spent adequate time on rapport-building activities, the initial substantive, open-ended question about abuse produced four times as much information as when inadequate time was spent on rapport building. Ask open-ended questions that can be answered positively, related, for example, to friends, hobbies, or pets. Avoid emotionally-charged topics, which, for some children, might include questions related to school.

- Explain interview purpose.

Make it clear to the child that he or she is the one who has all the information, and that you need to count on the child to tell you everything that happened.

- Discuss interview ground rules.
  - ⇨ Emphasize the importance of truth-telling.
  - ⇨ Explicitly indicate your need for detailed information.
  - ⇨ Teach the child how to use the "don't know" response.
  - ⇨ Give the child permission to tell you when he or she does not understand the question.
  - ⇨ Possibly conduct a practice interview, for example, about the child's pet.
- Request a free narrative.
  - ⇨ Ask only general, open-ended questions.
  - ⇨ Use narrative prompts.
  - ⇨ Stress again that the child should provide as much detail as possible.
  - ⇨ Tolerate pauses, even if they are long.
- Ask direct questions only if necessary.
  Because of the paradox that young children need help recalling experiences, but that direct, specific questions and other recall prompts may produce distortions and suggestibility, direct questions are advisable only when necessary. The emphasis should be on continuing to ask open-ended questions until they produce no further information.
- Explain legal proceedings.
- Formally close the interview.
  - ⇨ Recap the child's account, using the child's language and terminology. Ask for verification after each statement.
  - ⇨ Explain what will happen next.
  - ⇨ Ask if the child has any questions.

- ⇨ Give the child and/or the accompanying adult a contact name and telephone number in case the child decides later there is further information to discuss.

- ⇨ Return to some neutral topics during the rapport phase.

- ⇨ Thank the child for his or her time, effort, and cooperation.

The Don't's:

- Avoid demonstrative aids if possible.
  Widespread concern exists, for example, concerning the suggestibility involved with using anatomically correct dolls[16].

- Avoid discussions of "good" and "bad" touches.
  Before adolescence, most children do not possess the reasoning abilities required to process abstractions.

- Avoid leading and suggestive questions.

- Avoid modifying the child's statement.
  In their analysis of Child Protective Services interviews, Perry and Hunt (cited in Walker & Nguyen, 1996, p. 1603) found that children explicitly agreed with interviewers' modifications 46% of the time, disagreed 26% of the time, and ignored the modifications 28% of the time. More importantly, interviewers treated ignored modifications as if they were true.

- Eliminate multi-part questions.

- Avoid forced-choice questions.
  Research has determined they limit and inappropriately direct children's responses.

It should be noted that some populations of children are recognized in the literature to be doubly disadvantaged as they participate in a justice system designed not only for adults, but also without consideration of their specific needs. The British Columbia Ministry of Attorney General has produced a three-part series of reports on working with Aboriginal child witnesses. The communication and learning styles of Aboriginal children are considered, and the impact of their

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[16] Goodman et al. (1999) cite recommendations advising (a) dolls not be used as a diagnostic test to determine if abuse has occurred; (b) interpersonal factors such as age, cultural background, and socioeconomic status should be considered when using the dolls; and (c) sufficient training on proper investigative techniques should have been received by professionals prior to using the dolls. Scientific research has not fully addressed the question of the impact of the use of the dolls on true versus false reporting.

distinctive socio-cultural characteristics on their experience within the justice system (Clark & Associates, 1996).

Repeatedly the research has been decisive that age alone does not determine the child's ability to provide an accurate account of events (Saywitz & Goodman, 1996; Lamb, Sternberg & Esplin, 1998; Saywitz & Camparo, 1998). The context of the interview, the skill of the interviewer, and the child's emotional resilience together are factors to be considered. The burden however is on the interviewer to create an optimal environment and interview techniques to facilitate the child's effective recall of past events.

2.3.4 Psychological Impact of Testifying

Hamblen and Levine (1997) examined the literature on psychological effects of testifying on child victim-witnesses of sexual abuse to support their recommendations as to when children should testify and suggestions of the steps necessary to increase their perceived credibility by jurors and decrease their psychological harm. They locate the effects of sexual abuse in the framework of Finkelhor and Browne's four traumagenic dynamics, suggesting this framework provides the possibility of making predictions about the consequences of legal involvement on child victims' psychological development. MacDonald (1993) notes there are parallels of the traumagenic model with the Post Traumatic Stress Disorder Model, but "the former includes both affective and cognitive distortions (where P.T.S.D. locates all of its trauma in the affective realm)" (p. 17). The four traumagenic dynamics that result in a distortion of the child's assumptions are: traumatic sexualization, betrayal, powerlessness, and stigmatization, each of which may be impacted by the court process. Hamblen and Levine write:

> In the area of traumatic sexualization, negative feelings may emerge from repeat questioning about the abuse as well as from physical examinations. A child's betrayal may also be intensified if legal advocates or courts make promises that they cannot keep. Powerlessness may be either intensified or decreased depending on the case outcome. If the child testifies and no action is taken against the perpetrator, the child may feel revictimized. However, a child may feel empowered if he either stands up to his offender or if the offender is fittingly punished. Finally, disclosing the abuse publicly in court could increase a child's feelings of stigmatization by generating adverse opinions by friends, relatives, and possibly the media. In addition, the child's self-blame and guilt may increase as a result of any cross-examination by the defense (pp.157-158)[17].

Hamblen and Levine examined eight studies, the first conducted in the 1960s and the latest in 1994, and concluded that although earlier studies supported the hypothesis that testifying was psychologically harmful to children, the more recent research indicates that, for at least a subgroup of child victim-witnesses there are no long term negative consequences of providing testimony, and

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[17] For a further discussion of the impact of testifying on children see Marshall et al., pp. 21-23.

providing testimony does result in a higher conviction rate. More specifically, in summarizing their findings they noted:

- the negative effects of testifying in court appeared to be more detrimental in the short term but diminished over time;
- children who were required to testify more than once did not show as rapid or as complete improvement and continued to exhibit clinically significant behavioural problems even after the cases were closed;
- the two studies that considered the children's age found that three months after the experience of testifying six to eleven year old children exhibited fewer behavioural problems than older and younger children;
- older children expressed more negative views about testifying and experienced more stress in the courtroom than younger children;
- females reported greater negativity than males about the requirement of testifying in front of the defendant;
- children who lacked maternal support exhibited greater emotional distress and rated the effects of testifying as more negative than children who had maternal support;
- while testifying in criminal court does not appear to have any psychological benefit, compared to juvenile court which appears to be therapeutic, there does not appear to be any long term adverse effects of testifying in criminal court (pp.170-172).

Hamblen and Levine's study incorporates the research conducted at the London Family Court Clinic (Sas, et al., 1993), a study of 126 child victims of sexual abuse who had been referred to the Child Witness Project in 1988 and 1989, which remains the seminal work in this area in Canada. While the study found that those children who testified recalled the experience as stressful, it found no apparent long term effects in the sample of former child witnesses included in the research. The study noted however, differences in their life after prosecution between intrafamilial and extrafamilial victims. The authors note:

> The former group were likely to have suffered a permanent change to the composition of their family once the abuse was disclosed. In addition, there were consequences for non-abused siblings, and half of the child victims became estranged from grandparents. For all the children, the experience could negatively impact their schooling, peer relationships, standard of living and residential situation (pp.xvi-xvii).

Sas et al. conclude, the finding of no apparent long term effects does not suggest children's special needs can be ignored.

It is generally understood that the potential negative impact of testifying in court can be mitigated through sensitivity and skill on the part of investigators (McPherson, 1996), court preparation, and through a variety of provisions. Some of these provisions were identified by former child witnesses in the London study: a segregated waiting area, not having to see the accused while testifying, using simpler language, limiting the number of times a child is required to testify, having a support person present, and clearing the courtroom of spectators (Sas et al.,1993; Hamblen & Levine, 1997).

It is evident however, that empirical study on the long term effects of testifying is an area for continued research. Of specific concern are those children noted by Sas et al. whose long term adjustment may be most negatively impacted, i.e., where there was an adjudication other than guilt, and where maternal support was not present.

2.3.5 Judicial/Jurors' Perception of Child Victim Witnesses

In examining judicial application of relevant legislation in relation to children's testimony, Bala (Publication pending) notes that though section 659 of the *Criminal Code*, enacted in 1993 abrogated any common law ruling that made it mandatory for a court to warn a jury about convicting an accused on the evidence of a child, it still permits a judge to advise juries about the frailty of the testimonies of all witnesses, including the testimony of children. In other words, children's testimony must be assessed as a jury would assess the testimony of all witnesses. Justice Finlayson's comments in the 1994 Ontario Court of Appeal decision in *R. v. Stewart* reversed the conviction of a man charged with sexual interference, state:

> ...we must assess witnesses of tender years for what they are, children, and not adults. We should not expect them as witnesses to perform in the same manner as adults. This does not mean, however, that we should subject the testimony of children to a lower level of scrutiny for reliability than we do adults. My concern is that some trial judges may be inadvertently relaxing the proper level of scrutiny to which the evidence of children should be subjected. The changes to the evidentiary rules were intended to make child evidence more readily available to the court by removing the restraints on its use that existed previously but were never intended to encourage an undiscriminating acceptance of the evidence of children while holding adults to higher standards (Bala, Publication pending, p. 6[18]).

Bala concludes that even though the law allows for children's testimony to be accepted without corroboration, for the possibility of obtaining a conviction based solely on the testimony of a young child, or even for a conviction based on hearsay evidence from a young child who is not competent to be a witness, "it is helpful to the Crown's case to have some form of independent evidence to support the child's testimony" (p. 6).

Hamblen and Levine (1997) examined factors affecting jurors' perceptions of children's testimony to determine the situations under which there is a legal benefit to having children testify. A review

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[18] Page reference refers to pre-publication copy of article.

of studies using subject-jurors from either the community or colleges, and focusing on the credibility of child witnesses found:

- some support for the belief that young children are perceived to be more credible witnesses than adults;
- the child's age to have the largest impact on credibility and conviction. Both credibility of the child witness and findings of guilt increase as age decreases when children are victim-witnesses (with the exception of very young children who may be perceived as so young that there may be some doubt as to the accuracy of their testimony); child victim-witnesses around age nine were found to be the most credible witnesses;
- there is some evidence to suggest that credibility increases with age when children are only witnesses (i.e., not the direct victim of the crime);
- very young children and older children (about age thirteen) are perceived as more credible when their testimony is corroborated;
- child victim-witnesses as young as thirteen may be viewed as somewhat responsible for what happened, affecting perceptions of credibility and, as a result, conviction rates; the review found strong support for the idea that children are seen as more credible than adults up to the preadolescent years. By age twelve or thirteen, children are perceived to be possibly responsible for the abuse, and no longer have an advantage in the courtroom;
- female jurors rated child victim-witnesses as more credible, and they were more likely to convict the defendant than male jurors;
- no differences in defendant's guilt or credibility when the perpetrator was intra versus extrafamilial;
- research is needed on how the duration of the abuse, length of time before disclosure, sex and age of the offender, and parental reactions affect jurors' perceptions and thus, case outcome (pp. 145-154).

Hamblen and Levine conclude that while relatively few children who experience sexual abuse are required to testify in criminal courts, for those who are, the increased possibility of conviction as a result of their testimony must be balanced against the potential psychological harm they may experience in the process. Several protective measures designed to decrease children's courtroom distress are noted. Most common measures include a victim-advocate in the courtroom, clearing the courtroom of spectators, permitting a non-offending loved one to be present during the child's testimony, testifying via closed-circuit television or behind a screen, and better preparing the child for the experience through victim-witness preparation programs.

With regard to child witness preparation Regan and Baker (1998), in a study examining the impact of children's demeanor at the moment of courtroom confrontation with the accused in relation to trial outcome, note an "interesting conundrum" (p. 193). The behavioural responses study jurors' expected a child witness to demonstrate (e.g., crying, confusion, anger) may be the very responses that will be expected to be reduced through an appropriate court preparation program designed to safeguard their psychological health and improve their ability to provide accurate testimony. In other words,

> some of the techniques currently utilized to help children cope with courtroom appearances (e.g., preparation) may increase the likelihood that they will behave in a manner that raises doubts about their credibility and the value of their testimony in the minds of jurors. In short, the very measures that we take to safeguard young witnesses may inadvertently tilt the scales of justice against them (p. 193).

Regan and Baker note two additional factors that might serve to diminish the expected emotional response of young children by the time of the courtroom appearance: exposure to multiple interviews as part of the fact-finding and court preparation process, and substantial delay between time of the assault, or report of the assault, and the child's appearance in court. They suggest reducing the delay between the first report of sexual abuse and the trial date, reducing the number of interview sessions, and reducing the amount of preparation children receive prior to testifying as possible changes that "might increase the likelihood that the demeanor of a (presumably truthful) child would correspond to juror expectations" (p. 193); alternatively, they suggest that the courts could rely more heavily on measures that would prevent the need for face-to-face confrontation with the accused, e.g., videotaped testimony, closed-circuit television, or screens. As noted below however, there is evidence to suggest that jurors are more likely to convict when live testimony is heard (Orcutt, 1995, cited in Hamblen & Levine, 1997, p. 177).

2.3.6 Victim Versus Defendant's Rights

A conflict arises when the constitutionally guaranteed rights of the accused intersect with the necessity to protect the psychological well-being of child victim witnesses. In responding to the claim by some that the pendulum has swung too far in favour of sensitivity to the particular needs of child victims resulting in an erosion of the presumption of innocence of the accused, Bala (Publication pending) provides a caution. He indicates,

> The problem of false allegations by children, and false criminal convictions does not seem to be large in Canada, and judges continue to emphasize that they are acquitting accused persons even if they believe young witnesses, based on the principle of reasonable doubt. If anything, the complaint from judges is that Crown prosecutors should be more cautious in bringing forward cases where the only evidence is the uncorroborated testimony of a young child because conviction is so unlikely and the trial process so traumatic for the child (p. 38).

Hamblen and Levine further refute the concern that the protective measures allowing children to testify behind a screen or via closed-circuit television violate the defendant's right to confront the

accuser, citing studies indicating these measures do not have a negative impact on the perception of jurors (eg. Ross et al., 1994, cited in Hamblen & Levine, 1997, p.175). Conversely, it is suggested these measures may increase the accuracy of children's testimony by having a positive effect on children's abilities and their psychological well-being, and may in fact favour the defendant. The authors cite a further study (Orcutt, 1995, cited in Hamblen & Levine, 1997, p.177) finding that jurors were more likely to convict when live testimony is heard than when testimony is heard via closed-circuit television. The latter condition was found to create a more negative perception among jurors of the child, but did not result in a more negative perception of the defendant.

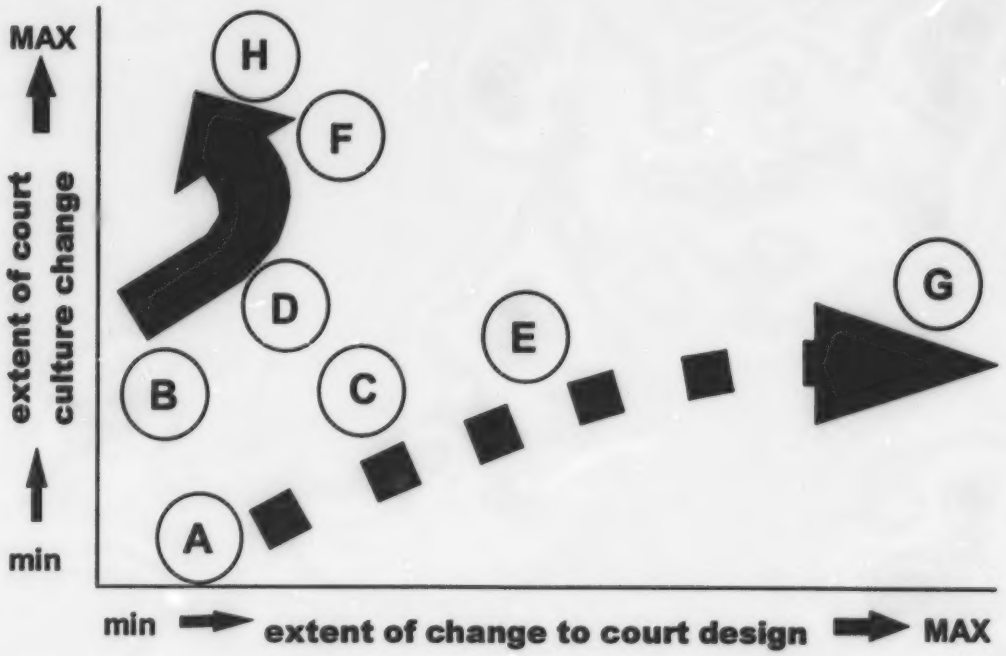
2.3.7 Call for Changes

Calls for changes in addressing the victimization of children are noted in the literature in relation to components within the criminal justice system where further research is required or it is perceived present practice could be improved. Additionally, reform is proposed that seeks to fundamentally change the current approach to the protection of children.

Further research is promoted in several areas, for example: in an effort to increase knowledge of disclosure patterns (Sas et al.,1993), and how those patterns affect case outcome (Hamblen & Levine, 1997), to understand the psychological impact of children's participation in the legal process (Hamblen & Levine, 1997), to address the issue of possible gender disparity within the criminal justice system in dealing with cases of child sexual abuse (Sas et al., 1993), to assess juror perceptions of the credibility of child witnesses (Regan & Baker, 1998), to further our understanding of the variables that affect children's memory (Goodman, Redlich, Qin, Ghetti, Tyda, Schaaf, &Hahn, 1999; Saywitz, 1995), and to explore prevention strategies in relation to child sexual abuse (Sas et al., 1993). In his discussion of the recognition in Canadian criminal courts of children's capacities and needs, Bala maintains there is "still a need for greater resources and better training in the Canadian justice system to allow cases to be properly investigated and children to be adequately supported through the criminal process" (pp. 38-39).

Wachtel (1997), in a background study toward preparation for a guidebook on court design for the British Columbia Ministry of Attorney General, reviews innovations that seek to accommodate child victim/witnesses along two dimensions - "one representing the court environment, the other representing the court 'culture'" (p. xi). These dimensions are represented in Figure 1, which incorporates most of the courtroom innovations described in the literature reviewed by Wachtel. The set of initiatives emphasizing changes to court layout or facilities progressively alters the court physically to better accommodate children. The initiatives focusing on practice progressively removes the child (from the courtroom and potentially from the courthouse) (p. xi).

Figure 1 - Approaches to Court Reform - Two Streams of Change



Legend

Emphasis on Design Changes	Emphasis on Procedural Changes
A. Adopt various spatial strategies to work around the difficulties; use side or back doors into the courtroom; tell child to face the judge; seat the accused out of the line of sight. Choose the smallest available court.	**B.** Support the child witness in other ways; orient the child to court; teach them to speak up; allow a support person to sit near the child; ask for the court to be cleared.
C. Use a screen.	**D.** Use videotaped statement.
E. Improve or modify the facilities to create a child-sensitive court: use screen, children's waiting room, etc.	**F.** Have the child testify via closed circuit television.
G. Build a children's court.	**H.** Allow testimony via videotaped deposition.

(Wachtel, 1997, p. xii)

Wachtel notes any changes must be considered within the context of "the twin but potentially opposed aims of supporting the child witness and assuring the accused of a fair hearing" (p. xiii). A subset of issues (provisions for appropriate separation between witness and accused or general comfort and security) reflect "ongoing debates, pitting notions from what we might term 'legal psychology' (about the conditions that promote truth-telling and appropriate tests of veracity) against academic psychology and its experimental findings" (p. xiv).

This debate is reflected in the strong challenge Park and Renner (*Challenging the Legal System*, 1999) offer to the legal system, which they contend creates "procedures ...[and] tactics that promote stress, ... push witnesses beyond their level of competency" (p. 2), and "prevent children from testifying fully and truthfully" (p. 4). In maintaining that the courts have been most lenient when there is a relationship between offender and victim and when there is no evidence of physical injury, Renner (1999, January 13) calls for a process of law reform in relation to sexual assault which would appropriately fix responsibility. In relation to children specifically, Renner and Park (*Documenting the Outrageous*, 1999) advocate a court watch program, recording frequency counts and excerpts from cases observed, where children are either held accountable for their sexuality, or are asked complicated questions beyond their developmental level, and in their failure to answer are treated as unreliable witnesses.

Based on their research Sas et al. (1993) conclude that Bill C-15 had been successful in prompting a coordination of justice and community agencies in their approach to child witnesses. The proportion of cases ending in guilty pleas had increased significantly, resulting in fewer children being subjected to the trauma of testifying. They determined that "any deficiency in the extent to which Bill C-15 met its goals was primarily related to implementation" (p. 230). Six priority areas were identified as under the purview of the provincial government for recommended implementation:

- Closed-circuit television systems should be acquired to facilitate reliable child testimony[19];
- Court rooms dedicated to the trial of cases involving child victims should be created in each jurisdiction where the volume of cases would warrant;
- Compulsory training should be instituted to educate judges, Crown prosecutors and those police officers who deal with child victims, about child development, child abuse and child sexual abuse syndrome;
- Court preparation services should be available to all children who are required to testify in criminal court;
- More consideration should be given to after-court victim services, with emphasis on victim safety and provision of information;
- Prosecution should not be the sole means of dealing with child abuse and efforts

[19] For Sas et al., closed-circuit testimony is the preferred option over use of the screen, the use of which, they maintain, has declined over the years because of problems in justifying its use. They nevertheless recommend retention of the screen as it is unlikely that closed-circuit testimony will ever be uniformly available across Canada. It is predicted that similar issues will arise in justifying use of closed-circuit testimony.

aimed at prevention and early detection should be given equal emphasis (pp. 232-235).

A multi-site study of the southern Ontario Child Witness Network and Victim Assistance Programs (*Viva Voce*, 1999) entitled *I'm Doing my Job in Court, Are You? Questions for the Criminal Justice System* (Sas, 1999), made recommendations in seven key areas:

Availability of Court Preparation

- Court preparation and specialized services should be available to all child witnesses;
- Referrals should be made to a Victim/Witness Assistance Program and/or a Court Preparation Program at the time the charges are laid.

Special Attention by Crown

- Early meetings with Crown to establish rapport with child witnesses;
- Early meetings provide opportunity for the Crown to assess the child's communicative ability and level of anxiety;
- Enable the Crown to determine whether expert testimony will be required.

Continued Training and Education

- More training and education regarding the special needs of child witnesses is required;
- Education workshops should be made available to the Judiciary, Crown counsel and all other criminal justice system personnel;
- Education should focus on social and cognitive developmental issues (e.g., age-appropriate questioning), disclosure patterns and trauma-related issues.

Child Friendly Court Houses

- Child friendly courtrooms should exist in every courthouse; the report recommends using J-court[20] in Toronto as a model.

Improved Treatment of Children on the Stand

- A code of ethics should be adopted by defence lawyers with respect to their handling of child witnesses in the courtroom.

Increase in Use of Testimonial Aids

- Use of testimonial aids should be standard practice.

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[20] See Wachtel (1997), pp. 71-74.

Cases Expedited

- A special effort should be made to expedite cases involving children through the justice system.

(*Viva Voce*, 1999, pp.1-2)

While these provisions call for changes to improve the present system, others call for a more far reaching reform. Levesque (1995) presents a comprehensive discussion, maintaining current efforts to protect children from harm focus almost exclusively on legal intervention and prosecution rather than on efforts to help children deal with their victimization. He suggests the focus on criminalization results in a channeling of resources away from other preventive and remedial efforts that may more effectively protect children from sexual maltreatment (p. 63)[21]. In such a climate research efforts are focused on child victims going through the criminal justice system rather than on the effects and influence of the entire child protection system on children. Citing some of the same studies as examined by Hamblen and Levine, Levesque concludes "[t]he bulk of studies, most of which are admittedly small and poorly designed, suggest that sexually abused children who testify are often harmed by their experiences in the legal system, particularly in the *criminal justice system*" (p. 75). What remains virtually unexplored is the effect of "the legal system's involvement on the victim's treatment" (p. 76) and research on interventions to prevent child sexual abuse, interventions which Levesque criticizes in their "almost exclusive focus on placing primary responsibility on children" (p. 78).

Levesque suggests the current signs of change in efforts to create a child-friendly approach remain "trapped [in an] interventionist and prosecutorial approach" (p. 81). Maintaining punishing offenders does not serve children, Levesque cites an inherent conflict between the goals of the criminal justice and mental health systems. He proposes a child-centred system approach, emphasizing the primary needs of the victims, and including the following qualities:

- priority placed on the prevention, treatment, remediation, and support needs of children;
- respect for the child's family, recognizing the importance of even abusive ties;
- when prosecution is deemed necessary, the system would provide supportive services to children throughout the various phases: investigation, prosecution, treatment, and remediation (pp. 87-88).

More far reaching still, in advocating a comprehensive family policy, deVink (1999) critiques the current process of isolating and treating children, and thus reinforcing values associated with

[21] This view is echoed by Anglin, (1999), who maintains the law, now dominating child welfare, is "a blunt instrument in dealing with protection". With all resources focused in assessing risk, in an effort, not to ascertain what happened, but guess what might happen, and on removal, little effort is directed toward developing alternative resources.

individualism over interdependence of family and community. In claiming Canada is weak in family policy in comparison to European countries, she suggests a fear of infringing on the privacy of the family serves to isolate children and place responsibility for their well-being solely within the individual family unit. Among other recommendations, she advocates the need for a comprehensive family policy, consensus on values that guide policy, and a clarification of minimum community standards.

2.4 Specialized Child Witness Programs in Canada

An overview of services in Canada for child victim witnesses (Viva Voce, 1996), suggests the most effective programs are multi-disciplinary, blending a knowledge of legal processes with sound child development expertise. Specialized programs for children and teenagers have emerged from a more general victim service model. Programs that offer "one stop shopping", where the same worker provides service throughout the criminal justice process were perceived to be most encouraging. The following program descriptions draw heavily from this resource.

Alberta

THE CHILD WITNESS COURT PREPARATION PROGRAM

The program, making formalized court preparation available to children province-wide, expanded in 1996 from an initial pilot project established in 1992 by The Canadian Society for the Investigation of Child Abuse. The program is staffed by a part-time coordinator with services provided by volunteers. The program content includes a two hour parent information session, followed by five one hour sessions for children including discussion and alleviation of the children's fears of court, relaxation exercises, roles of courtroom personnel, court process and rules, roleplaying the courtroom experience, and a courtroom tour. A program package, consisting of a videotape and comic book for children, and a curriculum, administrative guide and videotape for professionals, was distributed to victim assistance programs, police, and Crown prosecutors.

British Columbia[22]

SPECIALIZED VICTIM ASSISTANCE PROGRAMS

The Government of British Columbia provides funding for a large network of over 150 victim assistance programs across the province, which operate through police detachments, Crown Counsel offices, and various community agencies. Among those programs funded are 38 specialized victim assistance programs. An unspecified number of these are for victims of child sexual abuse.

Child abuse initiatives noted include the development of guidelines for child-friendly court design (Wachtel, 1997), the dissemination of a research report and guidelines for working with aboriginal child victim/witnesses (Clark & Associates, 1996), interagency training, distribution of educational resources to justice system and social service practitioners, and updating the Child Witness Preparation Manual.

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[22] *Victims in the Justice System: Programs and Initiatives in British Columbia*, 1998.

Manitoba

THE CHILD WITNESS SUPPORT PROGRAM

The Child Witness Support Program, originating in the Winnipeg Police Service Child Abuse Unit, became a permanent program of Manitoba Justice in 1989. The program is located in close proximity to the Crown attorney's Office, permitting ease of access to files and ongoing consultations. A Winnipeg courtroom is equipped with a Children's Waiting Room and a design that permits the child to appear before the judge without facing the accused. Videotapes are used regularly, and closed-circuit television, periodically. The program expanded beyond Winnipeg in 1994, providing services to children in Brandon, The Pas, and Thompson. Aboriginal staff members in the North provide services reflecting the local cultural environment. In 1990, the family violence court was developed to address the special needs of victims of family violence, including child abuse.

In response to shortcomings identified in child victim cases the Manitoba Government announced a six point Child Victim Support Initiative on April 10, 2000. The initiative, the first comprehensive plan of its kind in Canada, will include child friendly waiting rooms and courtrooms, specialized and resource prosecutors and augmented legal training, a process for early trial dates, processes to strengthen evidence, an enhanced Child Victim Support Service (formerly Child Witness Support Program), and child-centred approaches to sentencing and enhanced probation protocol.

Newfoundland and Labrador

Services to child and adolescent victims are currently provided either by the Child Protection Services of the Department of Social Services or through the ten Victim Services programs of the Department of Justice. While the priority of Child Protection Services is with children under the age of sixteen, the mandate of Victim Services is limited primarily to older teenagers. Services include the provision of explanatory material on the legal system, case up-dates, court preparation, emotional support, and referral. As of 1996 a key issue identified was that responsibility for child victims had not been clearly assigned to either of the two departments, resulting in provision of services essentially on an *ad hoc* basis. At that time a committee was investigating the issue.

North West Territories

Services to child witnesses are provided through the offices of the Crown attorney, the Department of Social Services, or through one of three victim services of the Department of Justice. The agency providing service depends on location, as the greatest challenge of service provision is the range of geographic territory. Crown services are centred in Yellowknife, Inuvik and Iqaluit; Department of Justice programs are located in Yellowknife, Fort Smith and Rankin Inlet.

Nunavut

Nunavut has yet to pass Victims of Crime legislation. As a result there are no services established for victims of crime. One individual in the Baffin region presently advises victims of court dates, acts as a support person in court, and assists victims with Victim Impact Statements. There are no specified programs for children.

Ontario

Programs for child victims are funded from a variety of sources including women's shelters, police

departments, government, private agencies, and charitable groups, making it difficult to present a provincial overview. Court based Victim/Witness Assistance Programs are operated by the Ministry of the Attorney General in fourteen cities; the Ministry of Community and Social Services funds services offered through children's aid societies. In southern Ontario a Child Witness Network working group, representing nine programs that specialize in assisting child victim/witnesses, meets quarterly as a forum for information sharing. Services and funding sources are described briefly below.

THE CHILD VICTIM-WITNESS SUPPORT PROJECT, LONDON FAMILY COURT CLINIC

Created: 1988, as a three year demonstration project, Health Canada; 1991, Ministry of Attorney General undertook responsibility for clinical court preparation services

Services: Witness preparation (ranging from three to eight sessions), court accompaniment and debriefing, expert testimony, Crown consultation, victim impact statements, criminal injuries compensation reports. The witness preparation protocol includes education, stress reduction, coping strategies, emotional support, and advocacy. Case coordination among mandated agencies is integral to the program; issues discussed in regular meetings include legislative changes, judicial precedents, and challenging clinical issues.

Research: Reports are available on preparation protocol evaluation, a three year follow-up of children who have testified, a study of children's disclosures of sexual victimization, and a study to determine the response of the criminal justice system to a sample of referred cases in 1995.

Funding: Ministry of Attorney General

THE CHILD VICTIM/WITNESS SUPPORT PROGRAM OF THE METROPOLITAN TORONTO SPECIAL COMMITTEE ON CHILD ABUSE

Created: 1987

Services: Court support and follow-up, community consultation, Crown consultation, public speaking, and multi-disciplinary training. The Toronto Child Abuse Centre recently launched an interactive web site for child witnesses that may be accessed at www.tcac.on.ca

Funding: Ministry of Attorney General

THE CHILD VICTIMS/WITNESS PROGRAM, FAMILY COUNSELLING SERVICE

Created: 1989

Services: Services to individuals to age 24 in Peterborough County

Funding: Donations

THE OXFORD CHILD WITNESS PROGRAM, CHILDREN'S AID SOCIETY OF OXFORD COUNTY

Created: 1989

Services: Court tours, Crown consultation, court support and follow-up, community education and training.

Funding: Ministry of Community and Social Services

NIAGARA CHILD VICTIM WITNESS PROGRAM
Created: 1989
Services: Court tours, support at Crown meetings, community presentations, court support
Funding: Family and Children's Services

THE CHILD WITNESS PROGRAMME, CITIZENS CONCERNED WITH CRIME AGAINST CHILDREN
Created: 1991 in the Waterloo Region
Services: Court accompaniment, Crown consultation, court follow-up, assistance with Victim Impact Statements and Criminal Injuries Compensation Reports, public speaking, and community consultation. Services are extended to mentally challenged adults.
Funding: United Way of Waterloo Region and Wellington County, and fund raising efforts

WATERLOO REGION FAMILY & CHILDREN'S SERVICES CHILD WITNESS PROGRAM
Created: 1993
Services: Information, court support and follow-up, Crown consultation, court accompaniment.
Funding: Ministry of Community and Social Services, Sexual Abuse Treatment Program

THE SIMCOE COUNTY CHILD WITNESS PROGRAM
Created: 1994
Services: Crown consultation, court support and follow-up
Funding: Fund raising efforts of the Simcoe County Children's Aid Society

REGION OF PEEL CHILD WITNESS PREPARATION PROGRAM
Created: 1995
Services: Court support, Crown consultation, community information and training.
Funding: Community fund raising efforts

Prince Edward Island

Victims Services, Department of Provincial Affairs and Attorney General provides service to children and supportive adults province-wide, providing case information, assistance in preparing and filing victim impact statements, court preparation in cooperation with Crown attorneys, court tours and role playing. A Child Sexual Abuse Protocol, endorsing a child-centred team approach, was signed in September 1995 by the Ministers of Health and Social Services, Education, and Provincial Affairs and Attorney General, the RCMP, and the Chiefs of Police Association.

Quebec

Information on specific services to child witnesses was unavailable.

Saskatchewan[23]

REGINA CHILDREN'S JUSTICE CENTRE

The Regina Children's Justice Centre uses a co-operative approach by a team of police and

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[23] John T. Nilson, Q.C., *Meeting the Needs of Victims of Crime in Saskatchewan*, Prepared for the House of Commons Standing Committee on Justice and Human Rights, 1998.

Department of Social Services child protection staff to investigate allegations of child abuse. It has provided an opportunity to blend the best of the many recent investigative models and to develop a Saskatchewan specific response that is innovative and one of the first such teams in Canada. The Regina Children's Justice Centre was initially a three year project but is now an ongoing program supported by the Department of Justice, Department of Social Services, and the Regina Police Service.

THE CENTRE FOR CHILDREN'S JUSTICE AND VICTIMS SERVICES

The Centre for Children's Justice and Victims Services (previously The Saskatoon Child Centre) originated as a three year pilot project designed to demonstrate the effectiveness of a comprehensive and coordinated multidisciplinary response to child abuse in a child-friendly setting. The Centre provides the child with all of the supports (forensic medical examinations, investigative interviews, victim services, court support services, referrals and information) in one location to protect and support the child in a warm and respectful way. Social Workers, police investigators, Victim Services staff and volunteers and Aboriginal Resource Officers are located in the Centre.

SPECIALIZED INTERVIEW ROOMS

Twenty-two "soft rooms" have been established in 18 communities to provide comfort and ease of videotaping interviews of primarily child victims of sexual assault during the process of investigating allegations of abuse. Soft rooms are generally housed in police buildings, and are used by police and social services to avoid multiple interviews of victims.

Yukon

Victim Services of the Yukon Territorial Government, in partnership with the RCMP Volunteer Victim Assistance Program, provides services to children beginning shortly after the crime, throughout the criminal justice process and beyond. Services include emotional support, comfort and practical assistance as related to the crime, referral to local helping agencies, information on progress of the police investigation, advising of release conditions or court dates, court preparation and accompaniment, requesting testimonial aids where appropriate, debriefing, and assistance in preparation of Victim Impact Statements.

3.0 RESEARCH METHODOLOGY

3.1 Purpose of the Research

The purpose of the present research is to gain, through examination of existing data, a profile of children in Nova Scotia who have received services through the Child Victim Witness Program, and to examine detailed information in relation to alleged child victims over a 15 month period. It is expected this analysis will provide a quantitative overview of the program and that the findings may be used to impact program content and data collection, case management within the criminal justice system, and future policy initiatives in the province.

3.2 Case Definition

This report is based on 2,050 cases involving children who were referred to the Victims' Services

Division from March, 1993 to June 30, 1999, who received services of the CVWP[24].

The study is structured in four components: a) information on demographics for the total of 2,050 files opened during the period March, 1993 - June 30, 1999, b) detailed information on services provided and court process on a data subset of 453 cases closed between April 1, 1998 - June 30, 1999, where children were alleged victims of an offence, c) information obtained from 19 parent interviews from a random sample of 60% of parents/guardians of the 130 alleged child victims who testified on files closed between April 1, 1998 and June 30, 1999, and d) information obtained from interviews with a sample of seven Support Workers who had provided the majority of service to clients during the past three year period.

For the purpose of this research a case is defined as involving children under the age of sixteen[25] who were alleged victims of a crime, who received services through the Victims' Services Division. All cases involving children as direct victims and children who were witnesses but not themselves victimized, and brief contact cases (fewer than three client contacts) are included in the initial data (See 4.1.1 Cases by Region). While it is recognized that children who witness crime but are not themselves the primary victims may be equally traumatized, by the experience, all remaining data pertains to child victims only (i.e., excludes brief contact cases and cases involving children as witnesses but not direct victims of the crime).

3.3 Sources of Existing Data

Prior to an examination of the data, a review of recent (post 1995) literature was conducted to obtain information on current studies and case law related to children's experience in criminal court proceedings.

The following sources of information were available to the study:

- Cd Rom/Internet/Media;
- data collected under the Child Victim Witness Program from January, 1994-June 30, 1999, as well as 62 cases that were opened prior to the establishment of the CVWP, and were transferred to the program for ongoing services;
- data subset of cases closed between April 1, 1998 and June 30, 1999, chosen for a detailed analysis;

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[24] This study includes those cases previously examined during the pilot program.

[25] As defined by the Province of Nova Scotia, Children and Family Services Act. It is noted there are varying definitions of a "child". According to the *Criminal Code* section 172(3), a child is defined as "a person who is or appears to be under the age of eighteen years". Under the Young Offenders Act section 2(1), a child is defined as "a person who is or, in the absence of evidence to the contrary, appears to be under the age of twelve years". Note: as the pilot program originally included clients aged 16-18, these children are included in the initial demographic data.

- data collected under the Criminal Injuries Compensation Program;
- interviews with parents/guardians of child victims who testified on cases closed between April 1, 1998 and June 30, 1999;
- interviews with Support Workers who had provided the majority of service to clients during the time period under study;
- requested information from regional Victims' Services Officers, and Crown prosecutors;
- requested information from national Victims' Services offices;
- Justice Oriented Information System (JOIS), the Nova Scotia Department of Justice case tracking system.

3.4 Data Preparation

Information for the review was compiled in two separate data sets, requiring technical conversion prior to examination. Information from the Child Victim/Witness Pilot Project was initially stored on a FoxPro database. In April, 1997 Microsoft Access 2.0 was instituted in the regional Victims' Services offices. As the Child Victim Witness Program had been incorporated as a core service, data from the program was amalgamated into the regional database, with additional data to that previously gathered thereafter compiled on a consistent basis. This has resulted in more complete case information being available for the period April 1, 1998 - June 30, 1999.

The two data sets were amalgamated for retrieval of information for the study. As the Microsoft Access database was being newly incorporated, the process of data input and retrieval has been refined over the ensuing months. This may have resulted in inconsistent gathering and inputting of data. To test the validity of the data, a file review was conducted of a 10% sample of cases drawn proportionally from each of the four regional Victims' Services offices. The data was determined to have been validated at an acceptable level for analysis.

The need to incorporate the historical data in existence prior to April 1, 1997 necessitated the development of a working copy of the Access database. Data therefore is reflective of information available at the date of copy and of information obtained through further clarification from the regional office Access database where gaps in information existed.

3.5 Parent Interviews

Invitations were extended by letter from the regional victims services offices to a random sample of 60% of supportive parents/guardians of the 130 child victims who testified on files closed between April 1, 1998 and June 30, 1999. A stamped, self-addressed envelope was provided, along with an enclosed form that parents could return to indicate whether or not they consented to being contacted. After a two week interval, in those cases where forms were not returned, follow-up calls

were made from the regional offices to obtain verbal consent, where possible[26]. Follow-up telephone interviews were arranged with 22 parents who agreed to take part in the survey. Of these, 3 interviews were excluded as it was determined the children had not testified. The final sample of 19 (15% of the total sample of child victims who testified) consisted of 18 mothers and one father. One interview was conducted with both parent and child.

Forced-choice and open-ended questions were structured to determine the degree to which the service provided met client needs, and to gain an understanding of children's experience waiting for, and during, court. Questions were designed with reference to earlier studies to permit a comparison. In relation to client needs, questions were duplicated from the evaluation of the Victims' Services Division (Collins Management Consulting and Research Ltd, 1996); some of the open-ended questions in relation to the day of court were replicated or adapted from the comprehensive London Family Court Clinic study (Sas et al., 1993). The telephone questionnaire is included as Appendix C.

3.6 Support Worker Interviews

Telephone interviews were conducted with a sample of seven Support Workers who provided the majority of service to clients during the time period under study. Questions were structured to identify perceived barriers to clients' accessing service, and gaps in service that the CVWP is presently not able to address, as well as Support Workers' perception of children/parent/supportive adults' experience when children are prepared for, and attend court. The Support Worker questionnaire is included as Appendix D.

3.7 Ethical Protections

The usual precautions to ensure client confidentiality and informed consent were employed during the study. A letter was sent from each regional office to parents prior to contact by the interviewer to inform them of the purpose of the research, to explain that their participation was voluntary and confidential, and that responses would be recorded anonymously in the final research report. Parents were assured their refusal to participate would not affect their ability to receive services of the Victims' Services Division at any time in the future. Further assurance was provided that participants could answer only those questions they wanted to answer, and could end the interview at any time. Each of these assurances was repeated verbally at the beginning of the interview.

Similar assurances of confidentiality were provided to Support Workers who were interviewed. They were assured they were free to decline answering any question, and that their responses would be compiled and reported anonymously and used only for the purpose of the research.

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[26] In some cases it was not possible to contact clients who had moved, had unknown telephone numbers, or who chose not to return telephone messages.

3.8 Limitations of the Study

The data is only reflective of those cases involving alleged child victims of crime who had been referred to the Victims' Services Division during the period March, 1993 to June 30, 1999 and received services of the CVWP. The numbers of children who could have been referred but were not is unknown. The sample is therefore not representative of the complete population of children in Nova Scotia who were victims of a crime within that time period.

This study provides no specific focus on children who have witnessed family violence, although it is recognized that children who witness such events can be victims of crime even where no specific allegation of child abuse is made.

It should be noted that data was analyzed by categorizing by age and gender, sexual and physical offences, and relationship of the child to the accused. Further examination is necessary by *Criminal Code* offence to determine the relevance of these findings.

When interpreting the results it is important to consider possible sources of bias in relation to interview volunteers. As noted by Sas et al. (1993, p. 52), criminal victimization may be either a subject individuals wish to forget about and not discuss further, or conversely, one that they are most willing to discuss, especially with someone known to be sympathetic. Examinations were conducted to compare demographic variables of responders and non-responders, with no significant variation noted. The groups were similar in relation to gender and age of the child, intrafamilial versus extrafamilial relationship to the accused, and in relation to offence type. Other factors however may have influenced parents' willingness to participate in the study, for example, their satisfaction with the justice process, the seriousness and duration of the abuse, or children's psychological well-being. Additionally, no efforts were made to locate individuals who had moved since last contact, or who did not have a telephone. Due to the extremely small sample size and the high refusal rate, care should be made in making generalizations based on responses received. It cannot be assured that the sample is representative of the total group of child victims who testified during this time period.

It should be recognized that as all interviews, with the exception of one, were conducted with parents/legal guardians, responses reflect parental perception of their child's experience. These recorded responses may differ from the child's actual experience or perception.

Finally, in relation to parent interviews, it should be noted that there may exist some confusion in differentiating the services provided through the Department of Justice Child Victim Witness Program from those offered through Police Community Assistance Programs. In some cases, in response to questions asked, it may not have been possible to determine if such confusion existed.

Interviews were conducted with seven of the complete roster of 22 Support Workers. Interviewees were selected based on the percentage of clients to whom they had offered service during the time period under study. The interviews therefore reflect a large percentage, but not the total files during this time period.

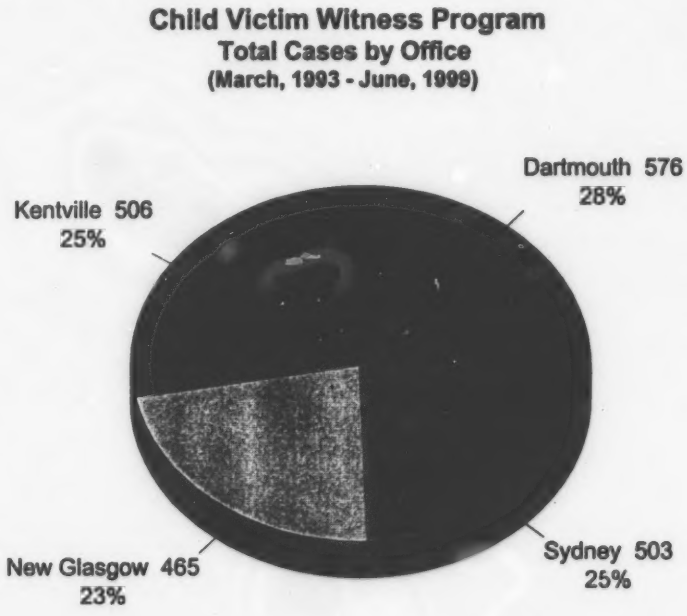
4.0 THE CHILD VICTIM WITNESS PROGRAM

4.1 Demographics

4.1.1 Cases by Region[27]

During the review period (March, 1993 - June 30, 1999) a total of 2,050 files were opened in the four regional offices of the Victims' Services Division, located in Dartmouth, Kentville, New Glasgow, and Sydney. This number includes children who were either direct victims of a crime or witnesses to another person's victimization, and includes cases involving only brief contacts (i.e., fewer than three client contacts). Chart 1 shows the distribution of the total cases by office, equally distributed geographically throughout the province.

Chart 1: Total Cases by Office



Overall, 84.2% of cases involved direct victims; 15.8% of children receiving service were witnesses who were not direct victims of the crime. When cases are examined by region, some variation is noted. When examining the program by year it is noted that there has been an increase in the number of referrals to the program of children called as witnesses who were not direct victims of the crime (from 0% in 1993-94 to 26.5% in 1998-99).

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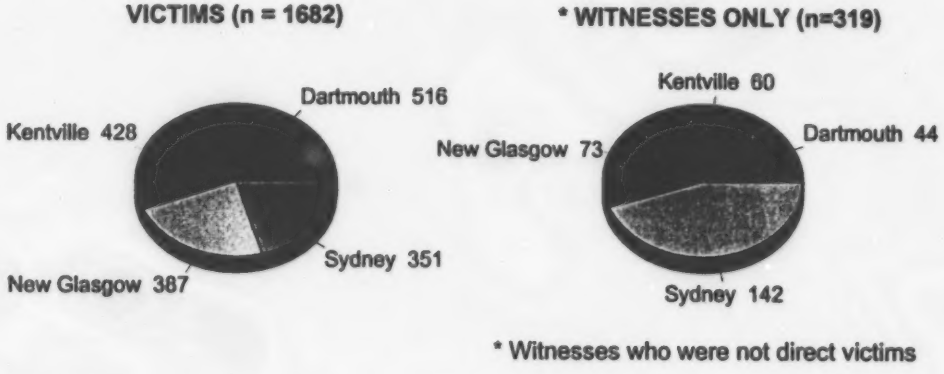
[27] Cases by Region includes child victims, witnesses, and cases involving brief contacts.

All cases identified as brief contacts (fewer than three client contacts), and all cases involving child witnesses (319 cases where children were witnesses called to give testimony but were not themselves direct victims of the crime) were removed, leaving a total of 1,682 child victim cases for analysis.

Chart 2: Cases by Office - Excluding Brief Contacts

Child Victim Witness Program
Cases by Office, Excluding Brief Contacts
(March, 1993 - June, 1999)



* Witnesses who were not direct victims

n = 2001

Cases by Region: Key Findings

A total of 2,050 children who were direct victims of a crime, and witnesses to another person's victimization were served by the Victims' Services Division in the province of Nova Scotia during the 15 month period, March, 1993 - June 30, 1999.

The number of children who are witnesses and not direct victims has increased to 26.5% in 1998-99, from 0% in 1993-94. During the overall time period, 16% of children were witnesses only.

In order to contribute to the literature on child victims who come before the criminal courts, the remainder of this report focuses on the 1,682 children who were direct victims of crime.

4.1.2 Referrals to the Program[28]

Table 3 indicates available information on referral source for 887 cases involving direct victims of

[28] All following data refers to cases involving children who were direct victims of crime (i.e., excludes children who were witnesses but not direct victims, and brief contact cases).

crime. Just over half (53.9%) of these cases were referred from either a Crown attorney or directly from police. Conversations with staff reveal that a greater number of referrals were received from Crown attorneys than is indicated in the statistics, as one referral only per case is recorded. In some cases a file has already been opened at the time a Crown referral is received.

Table 1: Referral Source - Victims

n = 887

Referral Source	Number	Percent
Crown Attorney	251	28.3%
Police Direct or Police Victim Assistance Program	227	25.6%
Other	175	19.7%
Self Referral	86	9.7%
File Search (Search of court dockets)	73	8.2%
Framework for Action Against Family Violence, Victim Support Projects	20	2.3%
Unknown	19	2.1%
Court Staff	12	1.4%
Child Welfare	12	1.4%
Transition House	7	<1%
Corrections	2	<1%
Counsellor	1	<1%
Medical	1	<1%
Sexual Assault Services	1	<1%
Total	**887**	**N/A**

The information on referral source has relevance within this study with reference to the stage of the criminal proceedings when the referral is received. Information was available in 860 cases involving victims (Table 2) on the stage in the criminal justice process that the referral was made to the Child Victim Witness Program. As noted above (1.2 Court Preparation Curriculum), a child is eligible for the Child Victim Witness Program curriculum after the criminal investigation is completed, a charge has been laid, and a court date scheduled. Of the 860 cases reporting referral stage, 495 (58%) were referred to the program at some point prior to the preliminary hearing. Another 33% were referred before trial, and the remaining 9% were either referred later in the criminal justice process or the referral time was unknown.

Table 2: Referral Stage in Criminal Justice System - Victims

n = 860

When Victim Referred	Number	Percent
When Reported to Police	113	13.1%
Before Arraignment	110	12.8%
Before Election and Plea	183	21.3%
Before Preliminary	89	10.4%
Before Trial	286	33.3%
Before Sentencing	40	4.7%
After Sentencing	4	<1%
Corrections	1	<1%
Completed Criminal Justice System	7	<1%
Unknown	27	3.1%
Total	**860**	**N/A**

Referrals to the Program: Key Findings

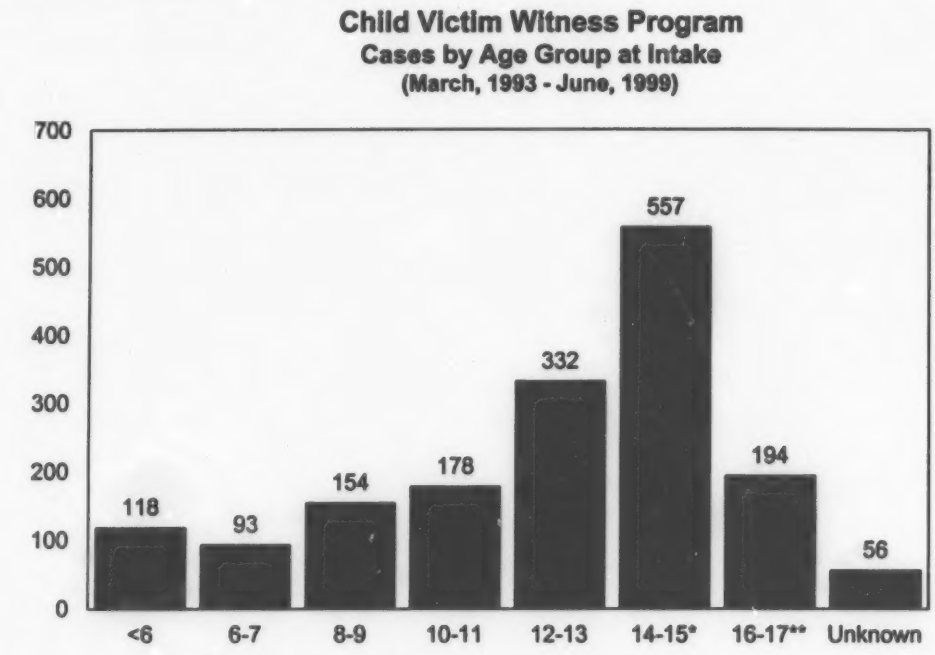
Where referral source is known on cases between March, 1993 and June 30, 1999, just over half were referred from either a Crown attorney or directly from police.

From available information on referral stage, it is known that 91% of children were referred either before the preliminary hearing or trial, making possible the provision of a full array of services to the child victim.

4.1.3 Client Profile

Just over fifty percent (54.7%) of children participating (where age is known) were 12-15 years of age at the time of intake. The average age of children prior to April 1, 1997 (i.e., when children ages 16 and 17 were included in the program) was 12.6 (13.0 for females and 11.7 for males). When the age of inclusion was reduced to 16, the average age was 11.6 (12.0 for females and 10.8 for males). The median age was 14 prior to April 1, 1997 and 13 from April 1, 1997 to June 30, 1999.

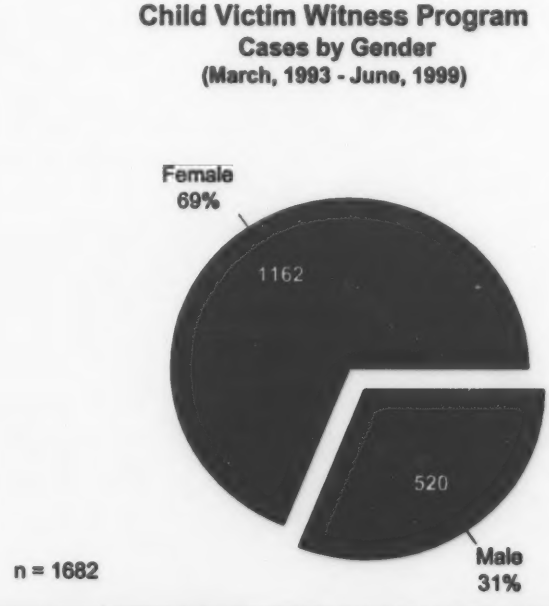
Chart 3: Cases by Age Group at Intake



n = 1682

Chart 4 indicates that 69.1% of cases involved female children; 30.9% involved male children. Information was unavailable on the gender of the child on one case referred to the program.

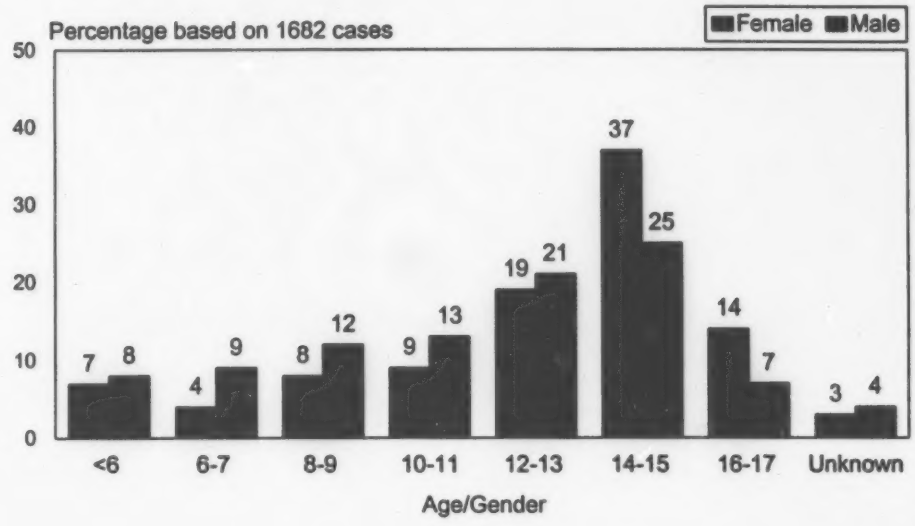
Chart 4: Cases by Gender



n = 1682

Chart 5 indicates there is a difference in age by gender. While 54.7% of all child victims were aged 12-15 at the time of intake, 73% of this age group were female. While half of the program cases were less than 13 years of age (the median age between April 1, 1997 and June 30, 1999), on a gender basis for the complete time period, 36% of females and 52 % of males were less than 13 years of age.

Chart 5: Cases by Age and Gender of Victim



Client Profile: Key Findings

In cases where age is known, just over 50% of children were 12-15 years of age at the time of intake; 73% of this age group were female. Considering only children under 16 years of age (i.e., excluding children aged 16-17, prior to April 1, 1997), the average age was 11.6; the median age was 13. The average age was slightly older for girls (12.0) than boys (10.8).

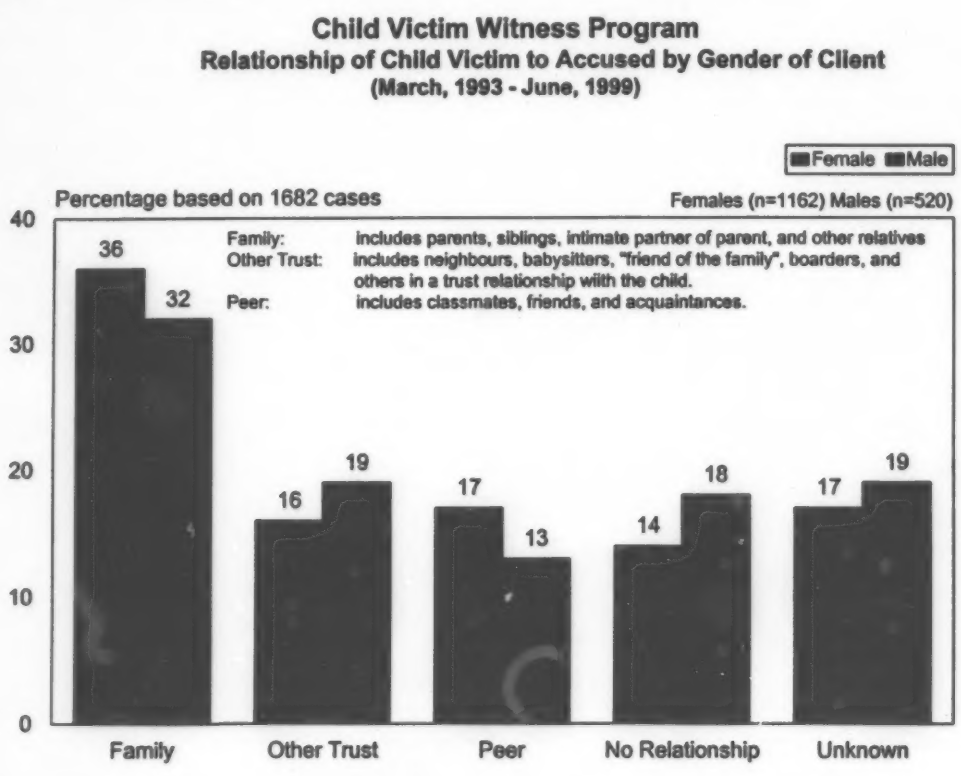
Just over two-thirds of the total sample of cases involved female children.

4.1.4 Relationship of Client/Accused

In 1,383 cases where relationship to the accused is known, 81% of children knew the accused, either as a family member (42%), a trusted adult (20%), or a peer (19%). Girls were slightly more likely

than boys to be victims of a crime within the family or within a peer relationship, while boys were slightly more likely than girls to be victimized by a trusted adult or a stranger.

Chart 6: Relationship of Child Victim to Accused by Gender of Client



Relationship of Client/Accused: Key Findings

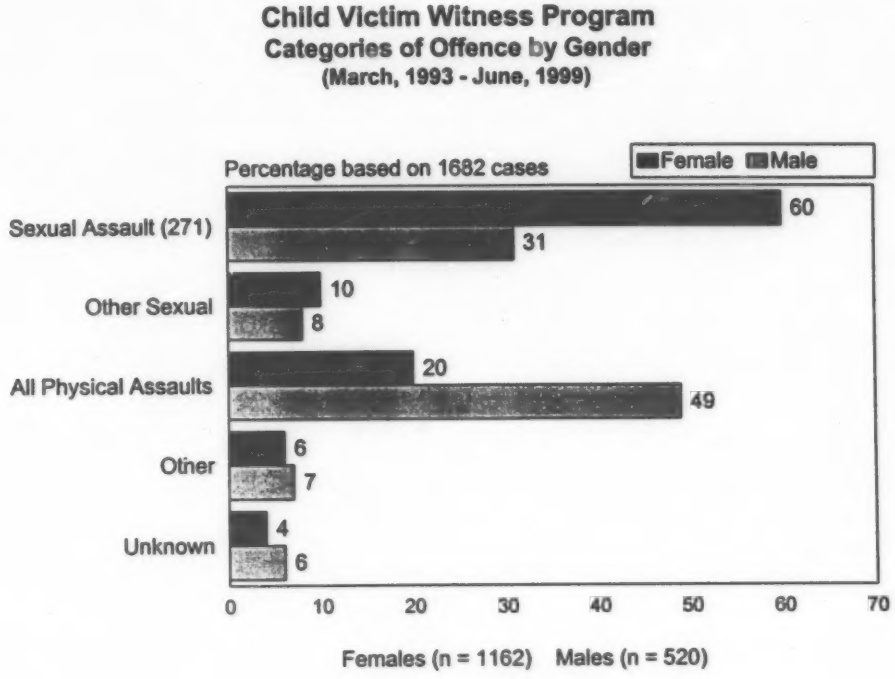
Where relationship to the accused is known, 81% of children knew the accused, either as a family member (42%), a trusted adult (20%), or a peer (19%).

4.1.5 Categories of Offences

The general pattern of offences by gender has remained consistent since the examination of data during the pilot program (which included direct victims and witnesses)[29], with female clients nearly twice as likely as male clients to be victims of sexual offences, and male clients much more likely to be victims of physical assaults.

[29] See McPherson, (1996, p. 31).

Chart 7: Categories of Offence by Gender



When combining relationship with gender and offence, it is revealed (Table 3) that within the family, girls were most likely to be victims of sexual offences, while boys were more likely to be physically assaulted. Sexual victimization within a trust relationship was similar for both genders. Within peer relationships girls were more likely to be sexually victimized; boys were more likely to be victims of physical offences. In cases involving abuse by a stranger, girls were more likely to be sexually assaulted, while boys were more likely to be physically victimized.

Table 3: Relationship by Offence and Gender

n = 1347

	Females n = 936			Males n = 411		
	Sexual	**Physical**	**Other**	**Sexual**	**Physical**	**Other**
Family	31%	12%	1%	13%	24%	3%
Other Trust	17%	2%	1%	17%	5%	1%
Peer	13%	6%	2%	5%	9%	2%
Stranger	11%	3%	2%	8%	12%	2%

Due to rounding of numbers, percentages may not add to 100.

Categories of Offences: Key Findings

Female children were nearly twice as likely as male children to be victims of sexual offences; male children were much more likely than females to be victims of physical assaults.

Within the family, within peer relationships, and in cases involving abuse by a stranger, girls were most likely to be victims of sexual offences, and boys were more likely to be physically assaulted. Sexual victimization within a trust relationship was similar for both genders.

4.1.6 Demographics: Implications of Key Findings

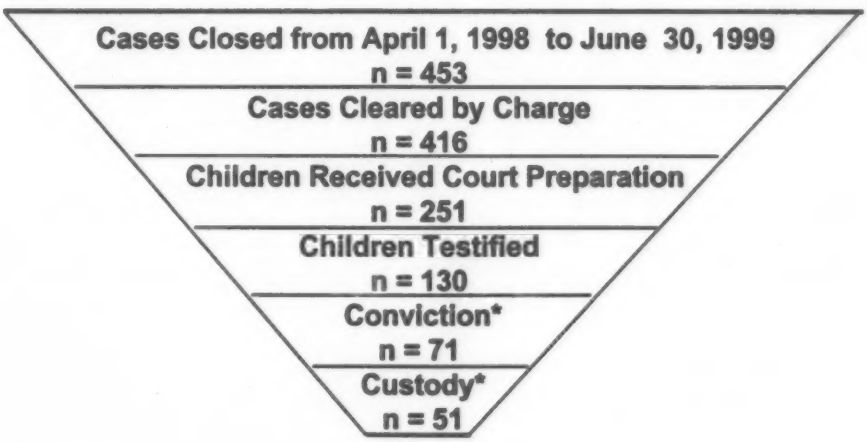
From demographic information detailed above, for children served by the Child Victim Witness Program from March, 1993 - June, 1999, it is determined that, though this study has focused on children who are direct victims of crime, the age and gender breakdown is consistent with that of the pilot program (MacPherson, 1996) that included both victims and witnesses.

4.2 Court Process

4.2.1 Study Sample

Figure 2 provides an overview of the flow of cases for the sample period of April 1, 1998 - June 30, 1999.

Figure 2: Case Attrition



*in cases where children received court preparation

Information on court process was examined on files closed between April 1, 1998 - June 30, 1999. This portion of the study focuses on the experience of children who were alleged victims of an offence. Cases involving child witnesses (n = 140) who were not direct victims of crime, and cases involving children who had fewer than three contacts with one of the Victims' Services offices, were excluded from the study. Eight cases that were closed during this time period involving children over the age 16[30] were not included in the study.

Table 4 provides an overview of the 453 cases included in the study.

Table 4: Study Sample by Gender, Age, Offence, and Relationship to Accused (n = 453)

	Female (n = 297, 66%)		Male (n = 156, 34%)		Total	
	No.	%	No.	%	No	%
Age						
< 6	25	6%	9	2%	34	8%
6-11	77	17%	61	13%	138	30%
12-15	188	42%	84	19%	272	60%
Unknown	7	2%	2	<1%	9	2%
Offence						
Sexual	196	43%	66	15%	262	58%
Physical	77	17%	79	17%	156	34%
Other *	24	5%	11	2%	35	8%
Relationship to accused						
Intrafamilial	92	20%	50	11%	142	31%
Extrafamilial	205	45%	106	23%	311	69%

Due to rounding of numbers, percentages may not add to 100.

* Other offences may include theft, robbery, uttering threats, criminal harassment.

Two-thirds of the cases in the sample involved female children. Sixty percent of the children were between the ages of 12 and 15. Thirty-eight percent of children were younger than 11 years-old. Eight percent were younger than six years-old.

Gender differences in the sample in relation to offence type are consistent with the literature that

[30] These cases were opened prior to April 1, 1997, when the age of eligibility for the program was changed to children under 16 years of age.

suggests that female children are much more likely to be victims of sexual abuse than male children. In 75% of all sexual offence cases female children were victims. Male children were victims in just over half (51%) of all physical offence cases. For both girls and boys, regardless of offence type, over two-thirds of cases involved an accused outside the family.

Of the 453 cases closed between April 1, 1998 and June 30, 1999, no charges were laid in 37 cases. In the majority of these cases (76%) the alleged victims were female children. When no charges were laid, the alleged offence was usually sexual in nature, and the accused was outside the family. Due to the small number of cases it is difficult to draw conclusions from this data.

A total of 416 cases were cleared by charge. The following provides a profile of these cases:

- 65% involved female children, and 35% involved male children;
- 56% of cases involved sexual offences; 36% involved physical offences; 8% other;
- girls were more likely to be victims of sexual than physical offences (64% versus 28%);
- boys were more likely to be victims of physical than sexual offences (52% versus 41%);
- in cases where relationship is known (n = 342), 37% involved an accused within the family; 63% involved an extrafamilial accused.

Although in all 416 cases where charges were laid children faced the prospect of testifying, in many cases they were not called upon to do so. At various points of the process cases were withdrawn or dismissed, or a guilty plea was entered. In 80 of the 416 cases guilty pleas were entered (n = 68) or charges were withdrawn by the Crown (n = 12) before a preliminary hearing or trial date was set. A total of 336 cases continued in the system to the point of a preliminary or trial date being set. In each of these cases children would have faced the prospect of testifying over an extended period of time.

Study Sample: Key Findings

Two-thirds of the 453 child victims whose cases were closed between April 1, 1998 - June 30, 1999 were girls; one-third were boys. The majority of children (60%) were between the ages of 12-15; 30% were ages 6-11; 8% were younger than 6 years-old.

The gender difference was roughly the same for the total cases cleared by charge (n = 416). Over half of cases involved sexual offences; 36% involved physical offences, and 8% involved other charges, such as theft, robbery, uttering threats, or criminal harassment.

Continued

Study Sample Cont'd: Key Findings

Girls were more likely to be victims of sexual than physical offences; the reverse was true for boys. The majority of cases (63%) involved an accused outside the family.

In 19% of cases guilty pleas were entered (n = 68) or charges were withdrawn (n = 12) before a preliminary hearing or trial date was set.

4.2.2 Court Preparation/Service Provision

Regional Victims' Services offices record preliminary hearing and trial dates as a means of tracking necessary client contact only. Therefore, the entry of dates is not necessarily an indication of whether or not the court hearing has actually proceeded. Only in those cases where the child was still scheduled to testify approximately six weeks prior to the preliminary hearing or trial date would the database indicate the child received court preparation. Court preparation was provided in 251 (60%) of the 416 cases where a charge was laid, as the Crown anticipated calling these children as witnesses. Though not all of these children were ultimately called upon to testify, at this point they were subjected to the trauma of the prospect of testifying.

The most frequent service that was provided was the initial information and rapport building session with the child and supportive adult, which was provided in 88% of cases, followed by a courtroom tour, provided in three-quarters of the cases where children were prepared. Court accompaniment was provided to children in 60% of cases. A meeting with the Crown attorney is reported as scheduled in 33% of cases where children received court preparation.

Table 5: Service Summary

n = 251

Service	# Occurrences	Percent
Session 1: Information Session	221	88%
Session 2 Courtroom tour *	185	74%
Meeting with Crown attorney **	83	33%
Assistance in preparing Victim Impact Statement	31	12%
Court Accompaniment	150	60%
Debriefing Session	142	57%
Booster Session	47	19%

* does not include court tour conducted by Crown alone.

**does not include meetings with the Crown held in conjunction with the court tour or court accompaniment.

Although court preparation was not provided in the remaining 165 cases, there were a range of other services that would have been provided either to the children or their supporting adults. Some examples of other services include: provision of information about the criminal justice system, support to the parent/legal guardian/supportive adult, assistance with submitting a Victim Impact Statement in cases where a referral was received prior to sentencing, assistance with peace bond applications or application to the Criminal Injuries Compensation Program, or referral to other agencies. Statistics on these services have not been examined in this study.

Table 6 provides an overview of the cases involving children who received some component of court preparation approximately six weeks prior to a preliminary hearing or trial.

Table 6: Percentage of Children Receiving Court Preparation (n = 251)

	Court Preparation Provided (n = 251)			% of Cases Charge Laid		
	Female (n = 167)	Male (n = 84)	Total (n = 251)	Female (62%)	Male (57%)	Total (60%)
Age (n = 250)*						
<6	8	2	10	47%	33%	43%
6-11	42	32	74	58%	56%	57%
12-15	116	50	166	67%	61%	65%
Offence (n = 251)						
Sexual	119	35	154	70%	57%	66%
Physical	36	40	76	48%	53%	50%
Other**	12	9	21	52%	90%	64%
Relationship to accused (n = 202)*						
Intrafamilial	46	24	70	56%	52%	55%
Extrafamilial	88	44	132	62%	60%	62%

* Age was not reported in one case. Relationship was not reported in 49 cases.
** Other offences include Uttering Threats, Robbery, Breach of Court Order, Criminal Harassment.

Table 6 reveals that overall, in relation to the 416 cases where charges were laid, nearly two-thirds of older children (aged 12-15) (65%) were still anticipating the prospect of testifying six weeks prior to a preliminary hearing or trial date, compared to just over half of children ages 6 - 11 (57%), or 43% of children younger than six years-old. Children were more likely to still face the prospect of testifying at this stage in relation to cases involving sexual offences (66%) versus physical offences (50%), and when the accused was someone outside (62%) versus inside (55%) the family.

A further examination by gender of the 251 cases where children actually received court preparation reveals that boys ages 6-11 (38%) faced a greater possibility of testifying than did girls in the same age bracket (25%). Girls ages 12-15 (70%) were more likely than boys (60%) in that age bracket to face the prospect of testifying. Girls were much more likely to face the prospect of testifying in relation to sexual offences (71%) versus physical offences (22%). Boys were only slightly more likely to face the prospect of testifying in relation to physical offence cases (47%) as compared to sexual offence cases (42%).

Both girls and boys faced a greater prospect of testifying in relation to cases involving an extrafamilial accused (nearly two-thirds) compared to cases involving an accused within the family (just over one-third).

In 76 of the 251 cases where children received court preparation, application was made to the Criminal Injuries Compensation Program (CIC). Fifty-eight of those applications were approved. Table 6 shows approved applications by type of offence and gender. Sexual offences accounted for 79.3% of awards granted; 20.7% were in relation to physical offences. Female children received 67% of awards. Seventy-nine percent of awards granted were in relation to sexual offences for both girls and boys.

Table 7: CIC Approved Applications by Type of Offence and Gender

n = 58

Offence	Female	Male	Total	Percent
Sexual	31	15	46	79.3
Physical	8	4	12	20.7
Total	**39**	**19**	**58**	**100%**

Table 8 shows award categories and amounts. Counselling was included in the award for 93% of approved applications. Of the 54 children who were awarded counselling, 23 (43%) accessed the award. Twelve of those children who accessed counselling were called upon to testify. In one half of these cases the first date of counselling was before the child testified.

Table 8: CIC Approved Awards by Category

n = 58

Award Category	Award Amount	# Occurrences
Child Care (Medical, Dental, Counselling)	$225.00	1
Counselling (1)	$54,000.00	54

Counselling (2)	$6,000.00	6
Damaged Clothing	$755.40	4
Dental Fees	$6,007.37	3
Other	$334.60	1
Travel	$5,281.72	7
Total	**$72,604.09**	**76**

Court Preparation/Service Provision: Key Findings

Court preparation was provided to children in 60% of cases cleared by charge (n = 251). The most frequent service provided was the initial information session (88%), followed by the courtroom tour (74%), and court accompaniment (60%); a meeting with the Crown was scheduled in 33% of cases.

Children were more likely to face the prospect of testifying if they were between the ages of 12-15, the offence was sexual, and if the accused was someone outside the family.

Boys ages 6-11 faced a greater prospect of testifying than did girls in the same age bracket. For children ages 12-15, girls were more likely to face the prospect of testifying than boys. Girls were much more likely to face the prospect of testifying in relation to sexual versus physical offences. Boys were slightly more likely to face the prospect of testifying in relation to physical versus sexual offences.

In only 30% of cases where children received court preparation, were applications made to the Criminal Injuries Compensation Program. Although counselling was awarded in nearly all of the approved applications, less than half (43%) of children who were awarded counselling actually accessed the award.

4.2.3 Profile of Children Testifying

In 128 of the 251 cases where children received court preparation, they were actually called upon to testify. An additional two children testified without having received court preparation, having been referred after they had testified. The following provides summary information on the 130 cases where children testified:

- 130 children testified, 88 (68%) females and 42 (32%) males;
- both boys and girls were more likely to testify if they were between the ages of 12 - 15;
- young boys (< 11 years-old) faced a greater likelihood of testifying than did young

girls;

- girls (12-15) were more likely to testify than boys in the same age bracket;
- all except two of the 123 children who did not testify received some component of the court preparation curriculum prior to learning they would not be required to testify;
- of the children who testified, 18 testified more than once;
- four children (2%) testified at a preliminary hearing that was followed by a guilty plea (n = 1), or charges withdrawn/dismissed (n = 3);
- although both boys and girls were more likely to testify in relation to sexual than physical offences, this was much more pronounced for girls;
- 35 (27%) cases involved intrafamilial abuse; 72 (55%) cases involved an accused person outside the family. In 23 cases (18%) the child's relationship to the accused was unreported;
- both boys and girls were more likely to testify in cases where the accused was extrafamilial versus intrafamilial.

Profile of Children Testifying: Key Findings

Just over half of the child victims who received court preparation actually testified; of these, just over two-thirds were girls. Most children testified only once.

Children were more likely to testify if they were between the ages of 12-15. Boys were more likely than girls to testify when children were under the age of 11. When children were older (ages 12-15) girls were more likely to testify than boys. Although all children were more likely to testify in relation to sexual than physical offences, this was much more pronounced for girls. Although the likelihood of testifying was greater for both girls and boys when the accused was outside versus inside the family, this likelihood was slightly greater for boys.

In one case the accused pled guilty, and three cases were withdrawn/dismissed after the child testified at a preliminary hearing.

4.2.4 Court Outcomes

Overall Outcomes

Court outcomes are listed in Table 9 for the 251 cases in which children received court preparation. In each case where there was more than one outcome on multiple charges, e.g., withdrawn and guilty plea, or withdrawn and convicted, the guilty finding was recorded.

As noted above (Limitations of the Study), that data was analyzed by categorizing by age and gender, sexual and physical offences, and relationship of the child to the accused. Further examination is necessary by *Criminal Code* offence to determine the relevance of these findings.

Table 9: Court Outcome

n = 251

Outcome	Number	Percent
Stayed	5	2%
Withdrawn/Dismissed	49	20%
Acquitted	55	22%
Convicted	71	28%
Guilty Plea	68	27%
Other*	3	1%
Total	251	100%

* Other outcomes include: mistrial declared (n = 1) and Peace Bond (n = 2)[31].

Table 9 reveals that 55% of outcomes resulted in a finding of guilt, either through guilty plea (27%) or a conviction at trial (28%). Twenty-two percent of cases resulted in acquittal. Twenty-two percent of cases were either stayed, withdrawn, or dismissed, and 1% had another outcome.

In this sample girls (55%) and boys (56%)were equally likely to see their cases result in a finding of guilt either through guilty plea or conviction. Cases involving older children (12-15 years; 60%) were more likely to result in a finding of guilt than were cases involving children ages 6-11 (51%). This likelihood was greater for boys than for girls. Only one of the 10 cases involving a child under six resulted in a finding of guilt.

Overall, physical offences (67%) were more likely to result in a finding of guilt than were sexual offence cases, where a finding of guilt had less than a 50% chance of occurring in this sample. Guilty pleas were entered in 38% of physical offence cases compared to 23% of cases involving sexual offences.

On cases where relationship was known (n = 202), extrafamilial cases ended in a guilty finding in 58% of cases compared with 47% for cases involving an accused within the family. For cases involving an accused within the family, a guilty finding was less likely for male children (42%) than for female children (50%). In extrafamilial cases, a guilty finding was only slightly more likely for male children (59%) than for female children (57%).

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[31] The Department of Justice Canada (1999) consultation paper *Child Victims and the Criminal Justice System* notes it would be helpful to determine to what extent current *Criminal Code* provisions in relation to peace bonds are being used to provide effective protection for children, or what, if anything, could be done to improve their use.

Outcomes at Trial

In considering only the cases that actually went to trial, a conviction occurred in 56% of cases, a finding consistent with Sas (1999), who concluded that a finding of guilt at trial was only slightly better than chance. Convictions at trial were somewhat more likely for boys (60%) than for girls (54%).

Cases involving older children (ages 12-15; 62%) were more likely to result in conviction at trial than cases involving children ages 6-11 years (46%). Each of the cases (n = 4) involving children under six years of age resulted in acquittal.

In this sample, convictions were more likely in relation to physical offence cases (65%) than sexual offence cases (49%) and in relation to cases involving an extrafamilial (58%) versus intrafamilial (48%) accused.

Outcomes When Children Testified

In just over half (57%) of cases where children testified the accused was convicted, compared to cases where children did not testify, where there was a 50% chance of conviction. Outcomes did not appear to differ based on the gender of the child who testified or whether they testified in relation to sexual or physical offences. When children testified, convictions occurred more often in cases when the relationship to the accused was extrafamilial (64%) rather than intrafamilial (46%). It should be noted however, that it is possible that children were only called upon to testify in cases where their evidence was essential, so care should be taken in comparing these results.

An examination of outcomes of the eight cases where children received a counselling award through the Criminal Injuries Compensation Program, and accessed the counselling prior to testifying, revealed that in five cases the accused was acquitted, one case was withdrawn, and a guilty plea resulted for two children in relation to the same accused. Though little may be extrapolated from such a small number of cases, in this sample it is suggested that the fact that children received counselling prior to testifying did not result in increased convictions. It is also quite possible that other children who testified received counselling but are unknown to this study, as the counselling was privately rather than publically funded.

Court Outcomes: Key Findings

Just over half the cases in which children received court preparation resulted in a finding of guilt, either through guilty plea or conviction; 22% of cases were either stayed, withdrawn, or dismissed.

Forty-two percent of all guilty pleas were entered after the child had been prepared to testify.

A finding of guilt, equally likely for girls and boys, was more likely in cases involving child victims between the ages of 12-15, in cases where the offence was physical versus sexual, and when the accused was someone outside the family. When the accused was someone within the family, girls were slightly more likely than boys to see their case result in a guilty finding.

Cases involving sexual offences were less likely than cases involving physical offences to result in a guilty plea, and more likely to be acquitted at trial.

Convictions, which occurred in just over half of the cases that went to trial, were somewhat more likely for boys than for girls, and more likely for older children (12-15). Each of the four cases involving children under the age of six resulted in an acquittal. Overall, the accused was acquitted in 22% of cases.

Further analysis is necessary by *Criminal Code* offence to determine the relevance of these findings.

4.2.5 Length of Time in the System

The length of time taken for cases to proceed through the system was calculated from arraignment date to the date of the last court action, i.e., preliminary hearing, trial, or sentencing[32]. From information available on 219 of the 251 cases where children were prepared to testify, on average it took 278 days (approximately 9.3 months) for cases to reach their final disposition.

In 48 cases charges were withdrawn or dismissed prior to the children being prepared to testify. On average it took 4.8 months for these outcomes to be determined. The 54 cases that were stayed, withdrawn, or dismissed after the children had been prepared to testify took on average, 10.9 months to reach their outcome.

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[32] As it is understood the arraignment date can follow the date of charge by 6 weeks to 2 months, this length of time will be increased by that amount.

Length of Time in the System: Key Findings

For all cases where children received court preparation, on average it took 9.3 months for the case to be resolved.

Forty-eight children saw charges against the alleged accused withdrawn or dismissed before being required to proceed with court preparation. It took on average, 4.8 months for these children to learn they would not face the prospect of testifying.

Twenty-two percent of the children (n = 54/251) who did receive court preparation saw their cases either stayed, withdrawn, or dismissed. On average, it took 10.9 months for this outcome to be reached.

4.2.6 Case Dispositions

Case dispositions were examined for the 207 cases that resulted in a finding of guilt, either by guilty plea or conviction. Results reveal that probation was by far the most common disposition, ordered by the judge in 80% of cases. A term of custody occurred in 25% of cases, and a conditional sentence in 14% of cases. It is noted that further examination is necessary by *Criminal Code* offence to determine the relevance of findings in relation to case disposition and sentence length.

Table 10: Case Disposition

n = 207 Cases may involve multiple dispositions. Numbers will not add to 100%.

Disposition	Number	Percent
Probation	166	80%
Custody Term	51	25%
Conditional Sentence	30	14%
Other *	27	13%
Community Service	14	7%
Fine	11	5%

* Other dispositions include Alternative Measures, Adult Diversion, house arrest, prohibition order, restitution, absolute discharge, apology, 100 word essay, accused deceased.

Girl victims were more likely than boys to see a sentence of probation handed down to the offender, and were also more likely to see their case end with the offender committed to custody. Custody was more likely when there was an intrafamilial (32%) rather than extrafamilial (21%) offender, and was nearly twice as likely in relation to sexual (31%) than physical offence cases (16%).

It might be hypothesized that the courts would look more favourably on offenders who plead guilty early and thus avoid subjecting the child to the trauma of a lengthy trial process. In this sample, this appeared not to be the case; the timing of guilty pleas appeared to have no bearing on disposition.

Whether or not children had been called upon to testify did not appear to have an impact on disposition. When children testified probation was slightly less likely than when they did not testify; custody was slightly more likely.

Sentence Length

The length of custody to which offenders were committed ranged in length from one day (Sexual Assault) to life (Murder). The one life sentence was excluded in calculating the average sentence length of 17 months. The average sentence was longer when:

- the victim was a boy rather than a girl (19.5 months versus 16.2 months);
- the offence was sexual rather than physical (22.6 months versus 4.9 months);
- the relationship with the offender was intrafamilial rather than extrafamilial (26.4 months versus 14.5 months);
- a Victim Impact Statement was submitted (23.3 months versus 5.4 months);
- the child was called upon to testify (31.3 months versus 7.5 months).

Case Dispositions: Key Findings

By far, the most common disposition was probation, ordered in 80% of cases; the offender was committed to custody in 25% of cases. Both dispositions were more likely for girls than for boys.

A term of custody was more likely when the offender was within the family, and was more likely in relation to a sexual versus physical offences. In this sample, the offender was only slightly more likely to be committed to custody when the child testified.

Sentence length varied from one day to life, with an average (excluding the life term) of 17 months. Sentences were longer when the victim was a boy, the offence was sexual, the offender was within the family, a Victim Impact Statement was submitted, and when the child testified.

Further analysis is necessary by *Criminal Code* offence to determine the relevance of these findings.

4.2.7 Court Process: Implications of Key Findings

An examination of data on cases closed between April 1, 1998 - June 30, 1999 reveals that this subsample of cases is demographically similar to the total 1,682 cases involving child victims that

were opened between March, 1993 - June 30, 1999.

While the majority (60%) of child victims were between the ages of 12-15, 38% (n = 171) were younger than 11 years-old; 36 children were younger than six years-old. This trend has remained consistent since the program's inception. As noted earlier, program resources were modified to reflect the predominantly older age group served than that for which printed materials had been available. It remains the case that the research literature focuses particularly on the needs and vulnerabilities of young children. The continuing challenge for program staff is to accurately anticipate and provide for the needs of, particularly, older adolescents.

The fact that girls were victims in roughly two-thirds of all cases continues to have implications both for service provision within the CVWP and for the choice of Crown when cases are prosecuted. As noted in the report of the Child Victim/Witness Pilot Project (MacPherson, 1996) the gender of the Crown could have a significant bearing on the ability of the child to be an effective witness.

Over two-thirds of cases involved extrafamilial abuse, suggesting perhaps that children are most at risk outside the family. However, this report concurs with the alternative explanation offered by Sas (1999); that is, as a society there may continue to be a reluctance to charge family members.

In 60% of cases that were cleared by charge children were still facing the prospect of testifying six weeks prior to a preliminary hearing or trial date, at which time the court preparation process normally begins. While just over half of those children who received court preparation actually testified, each of these 251 children would have experienced increasing anxiety at the prospect of testifying over a sometimes lengthy period of time. It is well known that pre-trial waiting is one of the most stressful times for children (Sas et al., 1993).

The finding that in only 65% of cases in which children testified after receiving court preparation a meeting with the Crown was scheduled, is inconsistent with anecdotal information from each of the regional offices, and from information gained from parent interviews, both of which suggest the meeting with the Crown is a standard practice in all cases involving child victims. A possible explanation may relate to the timing of meetings with the Crown. Very often the Crown meeting is done in conjunction with the court tour. Statistics taken from Support Worker billings may not reflect these meetings as they would reflect the court tour only. Similarly, if meetings with the Crown occur on the actual day of the court hearing when the Support Worker accompanies the child to court, statistics may reflect court accompaniment only. This may be an area for program follow-up with regard to standardized recording.

The fact that in only 30% of cases where children received court preparation applications were made to the Criminal Injuries Compensation Program, comprises another area for program follow-up, to ensure the application process is explained and understood. The low number of applications received from parents/guardians of children who received court preparation may possibly be explained by the fact that some children will undoubtedly have accessed counselling earlier in the process either through contact with a child protection agency or through individual initiative. It is recognized also that the need or desire for counselling or other forms of compensation may not be

recognized by some parents/guardians.

The further finding that though counselling was awarded to nearly all children whose CIC application was approved, less than half actually accessed the award, may speak to the specific needs that children experience throughout the court process. Children will have been referred to the Victims' Services Division, in most cases no sooner than ten weeks prior to the preliminary hearing or trial date. By this time the immediate emotional response the child experienced as a result of being victimized may have receded somewhat as the child has had to develop a means of coping with the trauma of the event. Though the ability to access the counselling award remains intact for a five year period, there may be a reluctance to bring these highly emotional issues to the forefront once again. It should be noted as well, that this five year period will still be in effect for a number of these children, and the counselling award may yet be accessed.

Forty-two percent of all guilty pleas were entered after the child had been prepared to testify. These 68 children could have been spared the anxiety of an upcoming trial if the accused had made an earlier admission of guilt. In some of these cases the guilty plea would have been entered on the day of trial. In each of these cases hours of preparation with the Support Worker would have been involved, as well at least one, and possibly more, meetings with the Crown.

In this sample, convictions occurred in just over half of cases (56%) that proceeded to trial. This finding is identical to that of Sas (1999), who raises the question of whether the emotional stress of court involvement is worth the effort, when the prospect of conviction is so low. Slightly more cases resulted in convictions when the child gave evidence compared to those when the child was not called upon to testify. It should be noted however, that it is possible that children were only called upon to testify in cases where their evidence was essential, so care should be taken in comparing these results. It is notable in this sample as well that when children testified in cases involving an intrafamilial accused, convictions occurred in less than half of the cases (46%). The implications for children are sobering. Not only must they face the reality that their disclosure has resulted in exposure of the abuse with its accompanying public recognition and breakup of the family, but they must contend as well with the possible internal belief that acquittal of the accused means they were not believed.

The finding that cases involving sexual offences were less likely than cases involving physical offences to result in guilty pleas and more likely to be acquitted at trial, is consistent with earlier studies that speak to "the clandestine nature of sexual abuse, and lack of corroborating evidence [that] continues to present a challenge to the courts" (Sas, 1999, p. 65).

This study determined that cases closed between April 1, 1998 - June 30, 1999 involving child victims remained in the criminal justice system, on average for 9.3 months from arraignment date to final disposition. Considering that arraignment date can follow the date of charge by six weeks to two months, this calculation of average time is understood to be conservative. Both the literature and practitioners draw clear implications for memory retention, the quality of truth that is possible with an increase in the passage of time, and the resulting possibility of the creation of reasonable doubt.

This study further determined that cases that were stayed, withdrawn or dismissed after children had received court preparation took slightly longer on average to reach their final determination than the average time for all cases. In addition to children associating the outcome with an understanding that their testimony was not believed, is the compounding factor of the passage of time.

Though convictions occurred in fewer than half of cases involving an intrafamilial accused, it is notable that when convictions did occur in intrafamilial cases, not only was the offender more likely to be committed to custody, but also received, on average, a sentence nearly twice as long as did extrafamilial offenders. This finding is consistent with earlier studies. Though intrafamilial abuse may remain less visible in our society, the occurrence of more intrusive acts (Sas, 1999) in these cases is reflected in sentences handed down. Similarly, this study's finding that sentence lengths were much longer for sexual versus physical offences is consistent with earlier studies.

This study's finding that sentence lengths were longer when the child testified and when a Victim Impact Statement was submitted has distinct program implications. While it is interesting to note that convictions were only slightly more likely when children testified, sentence lengths were much longer. While this study examined findings by grouping age and gender, sexual and physical offences, and relationships of the child to the accused, further exploration by specific *Criminal Code* offence is necessary to determine the relevance of findings in relation to outcome and disposition.

4.3 Children's Needs in Relation to Current Services Within the Criminal Justice System

As assessment of client needs in relation to current services within the criminal justice system was based on the 19 parent interviews and 7 Support Worker interviews conducted. It is noted that while parent responses reflect the content of the 19 interviews conducted, the responses of the 7 Support Workers are reflective of their total experience with child victims over a period of time, in one case, since the inception of the program. In other words, Support Worker responses should not be viewed as associated in any way directly with the specific 19 cases in which parents were interviewed.

4.3.1 Client Expectations and Response to Service Provision

From the 19 interviews conducted with parents/legal guardians of children who testified on cases closed between April 1, 1998 and June 30, 1999, only two parents had known about the CVWP before they came in contact with the Victims' Services Division. Seven parents expressed that they had expectations about how the program would be able to help them once they learned of its existence. Parents reported having a broad range of general expectations about the court experience. Most frequently stated expectations were: to gain information about what was expected of their child in court, about what to expect from others (courts, police, judge, Crown attorney) in the criminal justice system, and help in understanding court-related rules and procedures.

Parents/supportive adults were asked to identify their needs from a predetermined list of services provided by the program, whether or not the services they received met their needs and the importance of the service to the child victim and supportive adult. The survey also asked respondents to rate the degree to which the services received met their needs. This portion of the survey was duplicated from the evaluation of the Victims' Services Division (Collins Management

Consulting and Research Ltd., 1996) to permit a comparison with earlier data. The results are summarized in the table below, ranked in order of decreasing need.

Table 11: Client Rating of CVWP Services

CVWP Service	No.	Service Needed (% Yes)	Service Provided (% Yes)	Importance of Service (Max. 5)	Service Met Needs (Max. 5)
Information about what was expected of your child in the court	19	100%	95%	4.9	4.6
Arranged a court tour	19	100%	84%	4.7	4.4
Information about the trial	18	95%	95%	4.9	4.6
Information about who does what at the trial	18	95%	95%	4.6	4.7
Information to you and your child at a convenient place	18	95%	95%	4.8	4.9
Support and information after the trial	17	89%	63%	4.8	3.9
Court accompaniment	17	89%	84%	4.8	4.2
Information to you and your child at your convenience	16	84%	84%	4.6	4.8
Meeting with Crown attorney	16	84%	89%	4.8	4.3
Assistance on a Victim Impact Statement	12	63%	47%	4.7	4.0
Referral to Community Services or another agency	9	47%	37%	4.6	5.0
Assistance in applying for Criminal Injuries Compensation	9	47%	32%	4.4	4.1

The table indicates a high rating of client need for information that is consistent with results of the Collins Management Consulting and Research Ltd. report. The results of this survey however reveal that services such as court tours and court accompaniment are ranked as higher in need than had been previously indicated. The high ranking of information needs suggests, as in the earlier report, that clients are not initially aware of the services provided by the program, or the extent of their needs. While all services are ranked as important, the two columns on the right of the table reveal a slightly wider range of rating than was earlier evident.

The rating represents the average score received for each service. Each question consisted of a Liekert scale with the following categories and associated values. The higher the score in relation to the importance of the service or the degree to which the service met the client's needs, the more positive the response.

Value	1	2	3	4	5
Service Importance	Not at all important	Somewhat unimportant	Neither important nor unimportant	Somewhat important	Very important
Service Met Needs	Poor	Fair	Neither bad nor good	Good	Excellent

While all the services were ranked at a high level of importance, some services such as assistance with a Victim Impact Statement, referral to another agency, or assistance in applying for Criminal Injuries Compensation were rated as lower levels of needs. This may reflect earlier findings that were judged as likely confirming that clients at the outset perceive their needs largely in relation to acquiring information. As they become familiar with the program and the services available, these services are rated as important as well. This finding confirms that the program continues to correctly anticipate client needs.

The table suggests the program is successful also in responding to client needs, although there were four areas where clients reported a needed service where service in some cases was not received: support and information after the trial, assistance on a Victim Impact Statement, referral to another agency, and assistance in applying for Criminal Injuries Compensation. Of these, support and information after the trial was the one area ranked the lowest in relation to the service meeting client needs. Five of the 17 clients reporting a need for follow-up service after the trial reported not having received this service.

Parents/legal guardians indicated the two most important services they, or their child received from the program were information and support, with information appearing most frequently. When Support Workers were asked to indicate the two most important services they provided to child victim witnesses, these two services were also identified but the appearance frequency was reversed, i.e., Support Workers identified support to the child as the most important service, along with information provided. This difference in perception was likely due to Support Workers' response to the question in relation to the child as the client; the responses of the parents, on the other hand, are reflective of their own adult perceptions.

Client Expectations: Key Findings

The majority of parents did not know about the CVWP prior to their contact with the Victims' Services Division.

Parents perceived their needs largely in relation to acquiring information. Other services were perceived as important as they became familiar with the service.

Children's need for follow-up after the court experience is sometimes not met by the service.

Both parents and Support Workers ranked information and support as the two most important services. While parents ranked information first, Support Workers saw support to the child as primary.

4.3.2 Waiting for Court

Parents were asked about the frequency of meetings with the Support Worker who prepared their child for court, and with the Crown attorney. Respondents reported as follows:

- just over half (n = 11) of children met with the Support Worker more than three times before going to court; a further 5 met with the Support Worker three times;
- while one parent would have preferred contact earlier and one, later in the process, 17 parents considered the timing of the contact was appropriate;
- of the 17 who met with the Crown attorney, nine (over half) met once, and five met either two or three times and three met more than three times; two of the 19 parents did not remember their children meeting with the Crown attorney prior to going to court;
- there was an even division in relation to the timing of the meeting with Crown attorneys prior to court: less than one week before court (n = 6), one-two weeks before court (n = 5), more than two weeks before court (n = 5); one parent could not remember when the meeting with the Crown attorney had occurred;
- 18 parents believed the timing of the meeting with the Crown attorney was appropriate.

When asked to identify what parents believed their child was feeling or thinking about during the time leading up to the first court day, the majority of parents (n = 16) stated their child was nervous, scared, fearful, anxious, or uncomfortable. These feelings were exhibited in behaviours such as fear of going out alone, nightmares, moodiness, withdrawal from family and friends, and thoughts of suicide. Other feelings identified were fear of not being believed, a desire for retribution, and feeling responsible for divisions within the family.

Support Workers were asked what they thought were the main concerns of children in the time leading up to the day of court. From their experiences in working with children a wide variety of concerns were reported. Concerns are expressed in order of decreasing frequency.

- fear of the accused being in the courtroom;
- anxiety of not knowing what is going to happen, a feeling that persists despite the court preparation they receive;
- anxiety experienced by teens at the anticipation of their parents being present in court, an apprehension resulting from the teens' preference for not disclosing the details of their victimization to their parents;
- a fear that they are not going to be believed. Though this fear is exhibited at all age levels, it is reportedly most apparent among teenagers;
- younger children (under age 10) were reported to exhibit a fear that someone will yell at them or be mean to them;
- a fear of not being able to remember due to the large time span between giving their statement to police and the actual day of court;

> *All the concerns come spilling out during the first home visit. Both the children and their parents have, for months, been pondering the prospect of the actual day of court.*

- fear associated with feeling responsible for the outcome;
- fear of stating the actual details of what happened to them;
- a fear, for children less than five years old, of actually standing up to speak in the courtroom. It was noted that few of these children are even accustomed to standing up in the known environment of their classroom at school.

Support Workers were asked to identify the main concerns experienced by parents prior to the court day. Five workers reported a fear expressed by parents of their child being verbally harassed during the cross-examination. This was associated in two cases with a fear that the child will be revictimized and parents will not be able to protect their child. Parents' frustration with, or lack of faith in, the justice system was expressed in:

- a fear of the child being revictimized by the presence of the accused in court;
- an interpretation of the neutrality of the Crown as aloofness or distance;
- a hope that the system will respond despite the perception that the accused will get a "slap on the wrist";

- an inability to understand why they couldn't be in the courtroom with their "baby";
- a perception that the rights of the accused predominate over the rights of the child, accompanied by a misunderstanding of the presumption of innocence, the necessity of the accused being in court, and frustration that their child has to testify.

At times parental frustration was the result of inaccurate information provided by police, i.e., their child would not have to testify because videotaped evidence had been provided, or that the courtroom would be closed.

Other parental concerns identified by Support Workers included a fear of not being able to maintain an emotional neutrality so as not to influence their child's testimony, a fear that their child would be emotional and they could not physically comfort them, a fear that their child would not be able to remember significant details, and that other people were going to hear their child's testimony. It was noted that parents' needs sometimes override the needs of their children; their attention is sometimes focused on the accused, with the hope or expectation that there will be an adjudication of guilt.

Waiting for the Court Day to Arrive: Key Findings

Sixteen of the 19 children met with the Support Worker at least three times before going to court.

Of the 17 out of 19 children who met with the Crown attorney before testifying, nine met once and eight met two, three, or more than three times; two-thirds met less than one week before court, or one-two weeks before court.

The majority of children were described by parents as nervous, scared, fearful, anxious, or uncomfortable. Associated behaviours included fear of going out alone, nightmares, moodiness, withdrawal from family and friends, and thoughts of suicide.

The four most common fears Support Workers noted in children were:

→ fear of the accused being in the courtroom
→ anxiety of not knowing what was going to happen
→ anxiety (teens) of parents being present
→ fear that they are not going to be believed

The main concern Support Workers noted in parents was a fear of their child being revictimized by the presence of the accused in the court.

4.3.3 Perceived Service Gaps

Six of the seven Support Workers identified gaps in service to child victims of crime that the CVWP is not able to address. The following gaps were related in order of declining frequency:

- three Support Workers stated activity-based service delivery does not accurately reflect the content of the work; in some cases work is conducted outside of the components for which Support Workers may be remunerated; in other cases there is recognition that Support Workers cannot provide as complete a service as desired;

    - ⇨ taking parents' distraught calls, e.g., between court delays; concerns of parents for referrals, etc.; other issues affecting the child and family come to light; the Support Worker is often their "life line";

    - ⇨ booster sessions are not recognized financially;

    - ⇨ with young children two sessions are almost always not adequate;

    - ⇨ court accompaniment undervalued financially, e.g., dealing with people's "anger, anxiety, and angst". There is an unwritten rule that the Support Worker decides in each case if court accompaniment is necessary. Sometimes it is not possible to know until afterward how critical it was to have provided accompaniment;

    - ⇨ in the case of acquittals, because only one debriefing session is possible (after the child testifies), there is no opportunity for a second debrief; this is problematic as children will often translate an acquittal into a perception that s/he was not believed;

    - ⇨ if a trial is set over for decision, once the child has testified the role of the Support Worker is finished; it is difficult to explain why the Support Worker will not be there for the decision.

    Understanding was expressed for the reasons for the change in 1997 from a time-based to an activity-based delivery of service. Concern was expressed however, that significant components of the service are now perceived to be undervalued;

- two Support Workers identified issues associated with children's need for counselling;

    - ⇨ approval for funded counselling sometimes requires six months; interim counselling, though available through CIC, is perceived as necessary while applications are being processed. The child may actually be starting to put the initial highly emotional stage to rest and may need to"dredge it up again" when counselling is approved. The process is not meeting the "immediate need to tell" (as the CVWP is a non evidentiary service this role cannot be

filled by Support Workers);

- as CIC is approved where there is sufficient evidence to determine on a balance of probabilities that a violent crime has been committed, when there is an acquittal, in some cases that program cannot provide funded counselling; children may however still be traumatized and benefit from counselling;

- is there a role for someone to advocate for children in relation to CIC? If so, who should do this?

- in dealing with special situations, e.g., a child with a learning disability, it is difficult to meet their needs within the regular time frame;

- when a mother and child are both victims (family violence) it is sometimes difficult to focus on the child;

- the length of time between the investigation and court creates problems for children in terms of memory retention and willingness to testify;

- we need to take a longitudinal perspective and offer follow-up calls three to six months after court.

Support Workers were asked to identify perceived barriers to supporting child victims that the CVWP is not able to address. Barriers were reported to exist when:

- parental consent is withheld, e.g., situations of family violence when a child is a witness but the parents are still together; similarly when there are protection issues. Sometimes the child is still in the presence of the accused even though protection orders are in place;

- a child does not want to tell the details;

- there are insufficient items for which Support Workers may expect to be reimbursed; in some cases Support Workers make a decision to provide the service knowing they will not receive payment, essentially "volunteering" their time; in other cases, Support Workers, unable to do this, feel "resentment at not being able to provide as complete a service" as they otherwise might;

- the flexibility of curriculum tools is perceived to be limited. The current tools are viewed to be ineffective for very young children and for teenagers; a reexamination of the tools is suggested. Children are overstimulated by the play value of the puppet kit;

- children and parents are given misinformation by others within the justice system;

- counselling is not readily available while children have a strong emotional need to tell the

details of the event;

- the child's right to support is still perceived to be at the discretion of the judge;
- the program does not serve a diverse population;
- the complement of Support Workers is top heavy with females, especially in dealing with adolescent males.

Service Gaps and Barriers: Key Findings

The present activity-based service delivery does not permit Support Workers to provide as complete a service as they would desire, in relation to: ongoing support through the process, follow-up services particularly when the accused is acquitted, children with special needs, and young children.

In family violence cases where both mother and child are victims, it is sometimes difficult to focus on the needs of the child.

Interim counselling (prior to CIC funded counselling) is perceived to be necessary to facilitate children's "immediate need to tell".

When there is insufficient evidence to determine on a balance of probabilities that a violent crime has been committed, and CIC funded counselling is denied, children may still be traumatized and require counselling.

A review of the curriculum tools is suggested to accommodate greater flexibility.

The child's right to support is still perceived to be at the discretion of the judge.

Diverse client population groups are under-represented.

The complement of Support Workers is perceived to be top heavy with females.

4.3.4 The Day of Court

Fourteen of the children testified once, 12 at a trial and 2 at a preliminary hearing, with the charges later withdrawn. Of the five children who testified more than once, three testified at both a preliminary hearing and at a trial.

a) Waiting to Testify

Thirteen of the 19 children arrived at the courthouse between 9 and 10 am. Eleven children testified within one hour of arriving, four of these testified in less than an hour; five children waited various lengths of time throughout the day. One child waited one and one half days prior to testifying. Two parents were uncertain how long their children were required to wait.

Most Support Workers indicated that cases involving child witnesses are rarely scheduled at the beginning of the day, or they may be scheduled for 9:30 am but intentionally delayed until later in the day. Four Support Workers reported that children generally have to wait from one to three hours prior to testifying; three workers indicated children generally wait from four to five hours. Six Support Workers stated the Crown attorneys prefer that the court dispense with other items earlier so there will be fewer people present when the child has to testify. Two workers indicated Crown attorneys are apologetic if other things have to be dealt with prior to children testifying, or they will attempt to have the case heard earlier if it involves a young child. In some instances child cases are scheduled at 1:30 pm; there is recognition that while this may be preferable to waiting throughout the morning, young children are still tired at that time of the day.

When asked where children waited to testify, and the types of activities available for children while they waited, parents typically described waiting in a little room or in the lobby just outside the courtroom with no activities other than what the Support Worker supplied. Sixteen children waited in a place that was separate from where the accused waited; three children saw the accused while they waited. Two parents described searching for a separate place; one went to an office "where people go to pick up their child support cheques", another to the front desk at the law courts, in a tiny room with no windows.

Parents reported most often that while waiting to testify what their children remembered most was the prospect of having to face the accused or members of the accused's family, and being nervous or anxious and either not wanting to testify or wanting to get it over with quickly. For some the wait was long, and was either boring or anxiety-producing. For one child, a previous trial experience of not being able to testify due to severe distress compounded the anxiety. For one family a humorous incident broke the tension and is remembered most. Another child was reported to have remembered most of all the fun she had playing with the Support Worker who was "excellent". Knowledge that a child had to testify and was "doing right", and fear of not being believed were mentioned as most remembered by others.

When asked what they consider are the main concerns of children while they wait to enter the court to testify, Support Workers most often mentioned anxiety at being in the presence of the accused, and the waiting itself. Children's anxiety takes a variety of forms: hyperactivity, worry about the actual evidence and what they will say, worry about what questions they will be asked and what will happen if they can't answer a question, physical sickness, worry about how their mother will be, and worry that someone will be mean to them. Children typically want assurance the Support Worker is going to be in court with them. Older children, particularly teenagers, will often ask their parents not to go into the courtroom when they testify. The atmosphere of the waiting room was reported to make a difference in Support Worker's ability to provide a comfortable environment for the

children. Some are described as beautiful, others as dingy and hot.

Support Workers described the period of waiting for their children to testify as being very intense for parents/supportive adults. Typically parents expressed concern for their child's well-being, wondering if they were actually going to be able to testify, or expressed strong emotion themselves. Like their children, parents wondered what questions the lawyers would ask, expressed displeasure at waiting, became physically sick, or were preoccupied with thoughts of their child being in the presence of the accused. At times parents were experiencing their own anxiety at being called to testify. The role of the Support Worker during this time was described as being a "steady person in a sea of emotion", providing a link with the "rhythm of the courtroom", and attempting to assist parents in focusing on the needs of their child. At times parents would remain in the courtroom while the Support Worker waited with their child. Support Workers described this as parents "feeling like they're doing something", exercising the only power they have in the situation.

b) Testifying

In over half of cases parents indicated there were no postponements once the court dates were scheduled. Of the seven cases that were postponed, five were postponed once, and one was postponed three times over a "couple of years".

Generally children testified for less than one hour; four children testified for one to two hours, one child for two to three hours, and one for more than three hours. One parent could not remember how long her child was on the stand. In over half of the sample cases the Support Worker provided primary support to the child while testifying. In an additional six cases the child's mother went into the court while the child testified; one father provided support in the courtroom while his child testified. One child reportedly testified with no support person present, and one was supported by a boyfriend and a friend of the family.

In 17 cases the same Crown attorney who met with the child prior to court was present on the day of court. In over half of the cases (n = 10) the court was closed while the child testified. In 17 of the 19 cases the child could see the accused while s/he testified; in each of these cases the child would rather not have had to see the accused.

As with the Child Witness Project (Sas et al., 1993), and with the Child Witness Network agencies (Sas, 1999) children typically testified without the use of testimonial aids. Only one of the 19 parents interviewed indicated her child had testified from behind a screen. In one additional case a request had been made and denied. Most children (n = 12), according to their parents, would have preferred to testify from behind a screen. Two parents indicated that it didn't matter, and two indicated they had been given a choice but preferred not to use the screen.

When Support Workers were asked how often the screen is used, six reported it is rarely used, and one indicated in her experience it has never been used. Support Workers were asked about their understanding of the reason for that level of frequency. Each of the following responses were reported twice:

- Crown attorneys find it more advantageous not to use it; witnessing without this aid presents the child as a stronger witness, i.e., provides a truer sense of how the child responds to the accused;
- Crown attorneys indicate judges will only entertain the request with younger children;
- the screen is cumbersome;
- some children don't like it because they can't see their support people either yet they know everyone can see them.

Further reasons suggested for the infrequent use of the screen included:

- the application process is too complicated; expert testimony is required regarding the present level of trauma of the child;
- have no idea; we ask for it; it has to be argued by the lawyers; it's too big a deal; why bother;
- in my experience there have been two requests in two years; both have been granted;
- most of the time the children are able to testify;
- not terribly effective; when the child realizes the accused can see him/her but s/he can't see "him" it is sometimes worse; the children have already walked by the accused when they entered the court, i.e., they have already been exposed;
- at some point the screen will come down for identification purposes and the children know this; it is as though there's a boogie man out there;
- it is not available in every court;
- it is not used enough so the Crown attorneys don't see it as a possibility;
- once a child is in court there are fewer unknowns and therefore less fear; it is better without it;
- a lot of judges don't like them;
- if a child fears the accused, when the screen is used the child doesn't know where the accused is; this increases the fear for the child.

None of the children testified via closed-circuit television; 12 parents indicated their child would like to have testified through this means. In the experience of each of the Support Workers this method of testifying had never been used with the exception of once for a competency hearing. Two Support Workers suggested that not all courts have this capability, and one stated for those that do, the

technological setup would interrupt the process and create inconvenience. Two indicated that, similar to the use the of screen, there is a perception that there is a greater impact when this aid is not used, i.e., "children are perceived to be more credible when they break down". This perception is associated with the possibility that unless the child is present in court the "fear factor" will not be present and the experience will not be as real. Four Support Workers stated a desire that this aid be available for some, particularly young children. There is an understanding of the right of the accused to face his or her accuser, and a perception that there may be insufficient resources to support this aid.

Support Workers questioned the value of videotaped investigative interviews being used at trial. Five indicated they are rarely used, one stated they are used occasionally, and one said they are quite often used. Three respondents noted however, that the child is still required to listen to the entire tape and then testify, effectively lengthening the child's exposure to courtroom proceedings. Two noted the tapes are often of extremely poor quality and are not audible. It is perceived that for both the Crown and defence attorneys the child's testimony in court is preferable to videotaped testimony; the Crown are able to conduct a more thorough interview, and the defence want the opportunity of cross-examination. One Support Worker stated, in the one time she has seen a videotaped interview used it was used, not to help the child, but as a tool for the defence attorney to discredit what had been said in testimony at the preliminary hearing.

The majority of parents (n = 12) indicated that for their children the worst part of testifying was seeing the accused and the accused's family, or talking about what happened in front of the accused. Other responses included: not having her Mommy with her, a fear of not being believed, describing in detail what had been done to the child, being upset, having everyone watch, and having the accused's lawyer try to get the child to say something she didn't mean.

The majority of Support Workers (n = 4) stated the worst part of testifying for children is talking about the incident, the "raw piece", "reliving the moment", responding to the "embarrassing questions", "when they have to say things they have been taught all their lives not to say", particularly with reference to their body parts. Respondents noted this difficulty extends across age and gender. The cross-examination was the next most difficult part of testifying. Three Support Workers identified the type of questions as the source of difficulty, as well as the way the questions are delivered, particularly by defence lawyers. The Crown or judge reportedly often intervenes in the case of negative questions that children do not understand because they are beyond their developmental level. One respondent stated "it really is still an adult world for them". Walking past the accused, the extensiveness of details children have to go through, the repeatedness of questioning, fear of saying something wrong, and the length of time testifying, were further responses suggested as the worst part of testifying for children. In relation to the latter, one Support Worker related an occasion of a 10 year-old child testifying for seven to eight hours over a three day period.

> *The cross-examination is the next most difficult part. The Crown attorney is known to the child at that point, but when defence lawyers ask questions you can see the kids actually tense up.*

Children, according to Support Workers, exhibit a variety of behaviours that are indicative of their level of stress while testifying. Children, particularly teenagers, can become frustrated and aggressive or defensive, dismissive or rude. Others, particularly young children will put their head down, say they "don't remember", go very silent, become very very tired and irritable, want to get off the stand, or fidget and "climb all over the witness box". One Support Worker related an experience of a young child who "didn't open her mouth for 45 minutes". If there is no screen, some children will glance nervously at the accused; others will not maintain eye contact with anyone; still others will look "pleadingly" at the Support Worker "to take them away or make the defence [lawyer] stop". Support Workers further described children breaking down, muttering or getting confused, having a dry mouth, showing fear in their faces", or becoming giddy. Some children physically have been unable to walk up to the stand. Most children reportedly agree with what the defence lawyer says; it was stated young children particularly will not be able to disagree. In most cases children will not ask for a break.

Most children reportedly agree with what the defence lawyer says; young children particularly will not be able to disagree. In most cases children will not ask for a break.

Parents were asked to relate the best part of testifying for their child. Eight parents indicated the best part was the relief of actually telling his or her story, a feeling of release, "getting it off their chest", or actually being able to do it. One parent associated this with healing as the information had been held back for a number of years. Another believed that testifying had made her child a little stronger as "it showed her what she could do". Six parents did not identify a best part other than "getting it over with". Five parents associated the best part with an action on the part of justice personnel, eg, that the judge was kind, the court stenographer smiled and put the child at ease, or the police said the child did a great job. Three parents identified the support received from the Support Worker as the best part of the court process. A further response was that the child knew "she was helping do something so he couldn't do it to other kids".

Seven children, according to their parents, did not say everything in the testimony that they had wanted to say. Reasons for this included:

- becoming emotional (i.e., breaking down);
- fear
  - ⇨ when the child saw the accused;
  - ⇨ of the judge telling her to be quiet;
- becoming flustered
  - ⇨ when the judge asked the child what it means to swear on the Bible, the child took it literally;
  - ⇨ especially with the defence lawyer;

⇨ repetition, being asked the same question over and over;

- certain questions were specific, not giving a chance to say everything;
- not thinking the specific was important; child was at ease with the videotaped statement as the police officer was a woman.

Parents were asked what they remembered most about their child testifying. Four parents remembered empathizing with their child, feeling their pain, yet not being able to help them or stop it. Five parents recalled distress at not being able to be present in the courtroom, and the length of time waiting and not knowing what was taking so long or how their child was doing. Four noted how well their child had done, or their courage at doing something they, themselves would "probably have been terrified to do". One parent remembered all of the emotion, the guilt, and operating out of shock that went on for two years. Another recalled a promise that the case was going to Supreme Court, and the subsequent betrayal as "a kick in the face" in learning that it would not be going forward. Other responses included: their child's relief when it was over, and the support of "the whole court system".

Support Workers were asked from their observation, to indicate the most difficult part for parents/supportive adults when their child was testifying. Most frequently noted responses included not being able to stop the cross-examination or protect their child, and a feeling of guilt at not protecting their child from being victimized. Previous issues in relation to parents' earlier victimization may arise, or the parents may become focused on punishment of the accused and the outcome of the trial, making it difficult for them to focus solely on their child's need during the court process.

A Liekert scale with the following categories and associated values was used in the parent and Support Worker questionnaires to assess where appropriate to each group, the accuracy of information conveyed about the CVWP, the age-appropriatness of language used in the courtroom, and the sensitivity of justice personnel to difficulties children experience while testifying.

Value	1	2	3	4	5
	Disagree completely	Disagree somewhat	Neither agree or disagree	Agree somewhat	Agree completely

Results are summarized in Table 12.

Table 12

Parents			Support Workers		
Justice Personnel	**No.**	**Score (Max. 5)**	**Justice Personnel**	**No.**	**Score (Max. 5)**
Convey accurate information about CVWP					
Police	N/A	N/A	Police	7	2.6
Crown	N/A	N/A	Crown	7	3.9
Age-appropriate language					
Judiciary	N/A	N/A	Judiciary	7	2.6
Police	N/A	N/A	Police	5	3.0
Crown	18	4.5	Crown	7	3.9
Defence	18	3.1	Defence	7	2.0
Sensitivity to difficulties children experience in testifying					
Judiciary	18	4.5	Judiciary	7	3.3
Police	N/A	N/A	Police	7	3.4
Crown	17	4.6	Crown	7	3.3
Defence	17	3.0	Defence	7	2.1

The table indicates that Support Workers consistently reported lower ratings than did the parents for justice personnel, in assessing their use of age-appropriate language and their sensitivity to the difficulties children experience while testifying.

It should be noted that a change in wording of the statement regarding sensitivity to the difficulties children experience may provide a partial explanation for the differences in rating. The parent questionnaire read for example: "The lawyer for the accused person understood that testifying about a difficult experience was hard for your child". In some cases the parents responded that defence lawyers used the knowledge that the experience was hard for their child to the child's detriment, i.e., "they knew exactly what they were doing". It was clear the questionnaire, in some cases, was measuring the understanding of justice personnel, rather than their sensitivity. As a result, the statement was modified in the Support Worker questionnaire to read: "Defence lawyers are sensitive to the difficulties children experience in testifying".

Police, Crown, and judges were given nearly equivalent ratings by Support Workers, in relation to their perceived sensitivity to the difficulties children experience. Parents also rated judges and Crown attorneys nearly equal, though perceiving them as more understanding than did Support

Workers. Comments received from Support Workers noted that the majority of judges are more sensitive to children than in the past, although there remains a tendency to "go by the accused's rights". Beyond being "nice" to children, judges are perceived as failing to recognize children's need for a break, or the desirability of closed courtrooms. A lack of sensitivity was noted in one instance of rescheduling a case to a future date, in the middle of a child's testimony.

In some instances Support Workers noted that police "really extend themselves to children"; for others working with children is not natural for them. Continued training was advocated.

One Support Worker suggested Crown attorneys do not understand the trauma children experience during the long waiting period prior to testifying. Another, though agreeing completely that Crown attorneys are sensitive to children, indicated this does not mean they are always able to do something about it. In one instance any perceived lack of sensitivity was associated with working on a daily basis "within the system", and not remembering that this is the first time children have gone to court.

Defence lawyers received lower ratings for sensitivity from both parents and Support Workers. Five of the 19 parents provided explanations of their low rating. They felt that little consideration was given for the child. Defence lawyers, in some cases reportedly asked leading questions, were sarcastic, "pounced on" one child and then questioned why she didn't fight back. This parent strongly felt that her child was put on trial. Two parents indicated the defence lawyers may have understood the difficulties experienced by their children, but used this to their advantage. Another parent recalled the judge "getting after" the defence lawyer for the manner in which s/he was questioning her child. One parent did not rate the defence lawyer's level of understanding, indicating "they're out to win".

Three Support Workers, though rating defence lawyers low in their level of understanding exhibited toward children, recognized "they still have to do their job", "sensitivity conflicts with their job", or "it's their job to make [the children] feel uncomfortable". Another stated they are sensitive but "they do not have a behaviour that matches their sensitivity". One Support Worker commented that there are no rules for defence lawyers to follow.

Both parents and Support Workers expressed appreciation for efforts on behalf of the Crown to use language that children could understand. Support Workers indicated though some have difficulty using age-appropriate language, other Crown attorneys are "wonderful", and will modify their questioning when it is clear children do not understand an initial question. Some will actually use an individual child's recognized terminology for body parts. One parent indicated her child probably understood most of the questions that were asked. She reported however that there were a lot of assumptions and "fast talking".

Defence lawyers scored lower in their use of age-appropriate language. There is an understanding however, that the defence role, in part, accounts for this distinction. The responses of three Support Workers suggested the "nature of the job" dictates the intentional use of, for example, multiple, two part questions, knowing the children will not understand. One parent indicated the questions used were designed to confuse her child and distort what she said.

Support Workers rated police slightly higher than judges in their use of language children can understand. The competency hearing was noted by four of the seven workers as awkward and confusing for children, where examples are used beyond the child's understanding. One worker noted an example of Biblical questions about "hell and fury" with a nine year-old child. One of these four responses noted a judge being very good at the competency hearing as well as in cautioning the defence, but there are times when it is still confusing for the child. Another of the four noted an apparent inconsistency, where the same questions were asked of two different children, with the same responses given; one child was deemed competent and the other was not.

Support Workers were asked to rate the degree to which police and Crown attorneys appropriately convey accurate information about services offered through the Child Victim Witness Program. In relation to Crown attorneys, a mixture of response were noted. While some Crown attorneys "embrace and welcome" the program, and have developed a close working relationship with program staff, among others either a resistence is perceived, or there continues to be a lack of knowledge about making appropriate referrals. A suggestion for ongoing education was offered by two workers, one suggesting a presentation be made at regional Crown meetings.

Among police, Support Workers noted a lack of understanding of the program in three areas:

- referrals, i.e., a belief that police can refer only direct victims and not witnesses, or, for example, only young and not 15 year-old children;
- court process, i.e., in "engaging parents' sympathy", or "in an effort to make them feel better" they will sometimes inform children they won't have to testify when a videotaped interview is given, or indicate that the accused will probably plead guilty and they won't have to testify, or assure the child that the screen will be used;
- confusion between the services provided by the Department of Justice Victims' Services and those of police Victim Assistance Programs.

Parents were asked, if they could make changes, what two things they would change about the day of court. Responses were recorded as follows, in order of decreasing frequency:

- that the accused would not be in the courtroom, or be seated so close to the child;
- that children would not have to wait so long, or that cases involving children be scheduled earlier in the day, or that the atmosphere while waiting be improved;
- that the child's supportive parent would be allowed to be present;
- no change;
- that the defence lawyer would be less harsh, the lawyers wouldn't "badger" children, or that children wouldn't feel like they are being "processed", i.e., just another court case;

- that children wouldn't have to be on the stand so long;
- that the courtroom be closed;
- that the accused's family not be there;
- that I would have more information, about the legalities, or that "things would go deep";
- that children testify behind a screen or via closed-circuit television;
- that the accused receive a longer sentence;
- the date, because it was my mother's birthday.

The Day of Court: Key Findings

Over two-thirds of the children in the sample arrived at the courthouse between 9 and 10 am; over half of the children testified within one hour of arriving.

The majority of Support Workers stated that though cases involving child witnesses are scheduled at the beginning of the day, children generally have to wait from one to three hours prior to testifying as the court dispenses with other items so that fewer people will be present when the child is called to testify.

Typically children waited to testify in a little room just outside the courtroom, where no activities were provided other than what the Support Worker supplied. Three of the 19 children saw the accused while they waited.

While less than half of the 19 cases were postponed after the court date was set, one was postponed three times over a "couple of years".

Both parents and Support Workers reported children's greatest fear was the prospect of having to face the accused. In 17 of the 19 cases the child could see the accused while s/he testified.

Over half of the children testified for less than one hour; an additional four testified for one to two hours. For the majority of children the Support Worker provided the primary courtroom support.

The screen is rarely used as a testimonial aid; the benefits of its use were questioned by Support Workers. In the experience of all the Support Workers closed-circuit television has been used only once.

(Continued)

The Day of Court Cont'd: Key Findings

The value of videotaped investigative interviews was questioned by Support Workers.

Children exhibit a variety of behaviours that indicate their level of stress while testifying. Most reportedly agree with defence lawyers; most will not be able to ask for a break. Seven of the 19 children reportedly did not say everything in their testimony that they had wanted to say.

The majority of parents thought the worst part of testifying was their child seeing the accused or the accused's family; Support Workers believe the worst part is talking about the actual incident of abuse.

The best part of testifying was often a feeling of release; six of the 19 parents did not identify a best part other than "getting it over with".

Crown attorneys and judges were perceived by both parents and Support Workers to be sensitive to the difficulties children experience while testifying, although parents perceived them to be more understanding than Support Workers did; Support Workers perceive police to be equally sensitive. Defence lawyers received low ratings in their level of understanding exhibited toward children.

Appreciation was expressed for the efforts of the Crown to use language children can understand.

The competency hearing is reportedly awkward and confusing for children.

There continues to be need expressed for increased knowledge about the CVWP among justice personnel.

Changes on the day of court most frequently suggested by parents included: that the accused would not be in the courtroom, that the waiting period be shortened, and that the child's supportive parent would be permitted to be present.

4.3.5 After Testifying

In response to questions addressed to parents relating to the overall experience, responses indicated:

- 16 agreed completely that their child was more informed about the whole trial process because of the help received from the Support Worker;

- 15 agreed completely that they and their child felt completely supported through the process by the Support Worker; the remaining four indicated different levels of agreement or disagreement;
- while the majority (n = 13) disagreed with the outcome of the trial, 15 indicated they did not regret reporting the crime;
- 15 reported that their child was glad s/he testified.

Parents reported several reasons why their children were glad they had testified. They are, in order of decreasing frequency:

- it is now out in the open, a burden has been removed, the child felt vindicated, empowered, gained confidence, or "fought back";
- because of the verdict, or belief that the accused would be punished, or know s/he is accountable even if s/he is found not guilty, or that others would know what s/he is capable of;
- it would help other children;
- belief in doing the right thing;
- child has had counselling since;
- child now has safety from the accused;
- belief that things wouldn't have changed as much otherwise.

One parent reported that her child did not want to testify, and now that it is over indicated that if another similar incident occurred she strongly believed her child would not report it.

After Testifying: Key Findings

Support and information provided by the CVWP prior to, and during the trial process was viewed as critical by the majority of parents.

Although two-thirds of parents disagreed with the outcome of the trial, more than two-thirds did not regret reporting the crime.

In more than three-quarters of the cases parents reported their children were glad they testified; in the majority of these cases children felt vindicated in knowing they had fought back.

4.3.6 Recommendations for Change

Parents and Support Workers were asked what changes could be made to the justice system to make it easier for children while waiting for court, the day of court, and after testifying.

Waiting for Court (before the court day arrives)

Parents reported the following suggestions, in order of decreasing frequency:

- shorten time frame of investigation, or from investigation to trial, or eliminate postponements;
- no change suggested because help received was sufficient;
- don't know;
- same Crown attorney at Preliminary Hearing and at Trial;
- increased support from Support Worker, felt let down; contact suggested once per week;
- increased safety for child; child knowing accused can't get access to them;
- court tour when court is in session, to observe;
- process was taken out of the child's hands; child didn't want to do it; don't know what could have been done to overcome this.

Support Workers suggested the following changes to make the experience easier for children, in order of decreasing frequency:

- improved resource material:
  - for parents - to help them understand what they and their children are experiencing, and offering concrete suggestions of what they can do to assist and support their child;
  - for teens - a "concrete, mature, and sensitive" resource to help them to understand and talk about their feelings;
  - a preliminary information or education mail out or group session prior to the first home visit, informing parents and children of what to expect;
  - general information about the criminal justice system/court process, in newspaper advertisements.
- as much contact of the Victims' Services office with the child as possible for education and support, increased opportunities for Support Worker contact with the child, or earlier contact;
- dealing with cases more quickly;

- education for judges regarding children's right to have a support person present;
- appreciation for Crown responsiveness to Support Worker requests for meetings with the child.

Six months to a child is forever. They can't even comprehend sometimes ... kids that age trying to remember ... it's pretty easy to create reasonable doubt.

The Day of Court

In order to make it easier for children on the day of court, parents proposed the following changes, in order of decreasing frequency:

- not seeing the accused or the accused's family while testifying; explore other options, eg., videotaping, especially for younger children or for certain crimes, not having the accused in court;
- not testifying in front of people; have a closed courtroom;
- not having to wait so long;
- special, or separate waiting area;
- protection for children in relation to the cross-examination;
- make sure they know what's going to happen;
- testifying from behind a screen or by closed-circuit television;
- parent being able to be in court.

Support Workers offered a variety of suggestions for changes on the day of court:

- have cases involving children heard early in the day, or the only one on the docket that day;
- schedule children's cases for 2 pm (as with Youth Court);
- increase comfort level of waiting room; have tools available to reduce anxiety, i.e., better toys/ play tools; have comfortable couch/chairs; have coffee, drinks available;
- automatic use of closed-circuit television;
- locate waiting room separate from Crown office; ensure separate waiting area is available;
- it is very helpful to the child when both police and Crown check in;
- a short wait (1 hr) is beneficial to "normalize" the situation, but long waits increase children's trauma;
- closed courtroom automatic while children are testifying;

- ongoing education for judges/Crown/defence so they will be in tune with the child's needs, ability to understand complicated questions, length of attention span, need for a break;
- that the justice system recognize the importance of court accompaniment; Support Workers contribute to the degree that they think it is valued;
- use of videotaped evidence;
- automatic use of screen;
- code of ethics for defence lawyers;

Two Support Workers indicated they have stopped thinking about changes because they recognize the difficulty of making changes to benefit children when they may conflict with the rights of the accused.

After Testifying

Suggested changes made by parents to make it easier for children after testifying included:

- increased follow-up from Support Worker;
- no change; Support Worker met needs;
- time frame not long enough to access CIC funded counselling;
- Support Worker could walk out with the child, i.e., past the accused;
- talk with a group of people who had been through a similar situation;
- notify the family of the verdict;
- separate place for lunch, i.e., away from defence lawyer.

Additional comments received from five parents related to the outcome of the case. In two of these cases the accused was acquitted. Both parents stated their child associated this with not having been believed. One parent, in a case where the accused was convicted, was dissatisfied with the sentence of house arrest. Another observed a perceived inequity with the publication ban, stating it worked for the benefit of the accused. Two parents stated their belief that "everything was for the accused".

The ban on publication worked for his benefit. He told everyone he got off even though he was found guilty.

If there was some way to let them know that because one time something wasn't done, that doesn't happen all the time. They've got to have something to believe in.

Support Worker response to requests for suggestions after testifying related to provision of the court preparation curriculum, the time

frame within which cases involving child witnesses are processed through the courts, roles of justice personnel, and court facilities. Three Support Workers expressed a concern that the allowable time for follow-up with children is insufficient. The current curriculum includes only one debriefing session, and an additional one with approval, with the focus on telling children they did a good job. It is suggested that the curriculum be expanded to enhance this component either through follow-up visits or telephone calls, and the focus of the follow-up be expanded to give children an opportunity to express their feelings about what happened during the court process. It was stated that children "are in a bind". They want to tell someone but there is little opportunity as the role of the Support Worker is limited as the service is non-evidentiary, and there is often a waiting period before CIC funded counselling is approved. It was observed that the need for the child is especially great in cases involving an acquittal, in which CIC counselling is sometimes unavailable. It was suggested that a 1-800 number be established to encourage children to talk about what happened, and to assist parents to deal with their child's behaviour.

An expansion of the service was also recommended to permit follow-up with the child through the period of probation, parole, or temporary absences.

One suggestion was made that the time frame be shortened in cases involving sentence adjournments.

Support Workers stated the onus is on justice personnel to convey sensitivity to child victims. It often means a lot to the child and the family when the Crown, police, and Victims' Services Support Worker check in with the child or tell the child that s/he did a good job. As the child may not readily ask permission to ask questions, it is especially important for justice personnel to extend themselves and take the initiative in relation to young witnesses.

One comment was made that the facilities, i.e., waiting area in satellite courts, and in the Victims' Services offices could be improved to increase the comfort of children.

General Suggestions

Both parents and Support Workers were asked for further suggestions or comments about children's experience in the criminal justice system.

Half of the comments received from the 18 parents who responded, provided comments in relation to court outcome. Five called for tougher sentences, two called for increased supervision of sentences of house arrest or probation, two called for alternative sentences such as "working in the woods" or "boot camp", two expressed displeasure with the investigation or some aspect of the trial process, and two conveyed appreciation for the support received from the Victims' Services Support Worker. Other individual responses included: a perception that there are no rights for child victims, there is a lack of services for troubled kids ages 12-19, with increased funding needed for prevention, a desire that the court had been tougher on their child (the victim) because of a belief that he had some part in the offence, displeasure with the Young Offenders Act, and a belief that Restorative Justice is not appropriate in relation to sexual assault of any kind with young children.

Three parents indicated that the long wait before their child's case came to court was problematic, with two associating the length of time with difficulties for the child in remembering details and giving accurate testimony. It was suggested this is the reason for so many acquittals. The other suggested the time be shortened so the child will feel "s/he did what was right", that s/he be "supported instead of let down".

> *Just overall, the whole experience was very negative. I compare it to the medical system and how bad it is. You have the expectation that someone will be there for you. It surprised me the torture a victim can go through, the lack of support and information about what's available. For someone who doesn't have a support system or is afraid to ask, it would be very difficult.*

Two parents reported the whole experience as negative for their child, with one stating that she did not report a subsequent assault because of her child's experience.

A final recommendation was made that cases involving children should have precedence for immediate counselling.

Support Workers offered general comments in relation to four areas: program resources and fee structure, impact of criminal justice involvement on children, the role of justice personnel, and ongoing training.

Generally, Support Workers completely endorse the Child Victim Witness Program. One worker stated she cannot imagine children going through the experience without it. Three workers made suggestions to address perceived gaps in the curriculum or service structure:

- the program materials were described as wonderful for younger children but inappropriate for 12-15 year-old children. The puppets were viewed as inappropriate by one worker; another recalled having used them only once with a very withdrawn child, when they were of great benefit;

- some literature is suggested to leave with children, for example, *The Secret of the Silver Horse* (Department of Justice Canada, 1989), or some other resource to deal with feelings;

- dissatisfaction was expressed with the present fee structure, for example the present rate for a full day of court could involve 8-9 hours. Support Workers reported regularly doing work for which they are unable to be reimbursed;

- dissatisfaction was expressed with the present focus on testifying, with the suggestion made that sometimes that isn't the hardest part for individual children;

- the question was raised if the fee structure will accommodate workers accompanying children to read their Victim Impact Statement in court, a practice expected to increase with the recent legislative change (C-79);

- a request was made for additional Support Worker training in dealing with children where

the accused is acquitted, to adequately provide support "so the child doesn't believe s/he would never report anything again in future".

Three comments were made regarding the risk of children's participation in the justice process causing further victimization. This was noted in reduction of charges through plea bargains, and when a number of charges are tried separately and parents do not understand "why the Crown doesn't fight to have them combined". One worker wondered if "we're doing more damage with the way the system is", stating that a lot of acquittals are the result of reasonable doubt "even though the judge believes the child.

In relation to the role of justice personnel, one Support Worker commented that Crown attorneys are often able to become familiar with the case only a couple of days before court. Another stated the collaborative process with the Crown has developed as she has become more familiar with her role. This worker suggested that Crown attorneys are probably also becoming more familiar with the program.

One worker made a strong suggestion for sensitivity training for Crown attorneys and police in relation to asking appropriate questions in a child sensitive way.

Recommendations for Change: Key Findings

Parents offered several recommendations for changes to the justice system to make it easier for children while waiting for court, the day of court, and after testifying. Most frequently noted were:

→ shorten the time frame of investigation, or from investigation to trial;

→ explore options, e.g., videotaping, so children would not have to see the accused while testifying;

→ increase follow-up services after testifying.

Recommendations most frequently provided by Support Workers included:

→ improve resource material, to assist children to understand and talk about their feelings;

→ increase opportunities for contact with children prior to court; increase follow-up after court;

Continued

Recommendations for Change Cont'd: Key Findings

→ schedule, and hear cases earlier in the day;

→ increase comfort of waiting areas, with age-appropriate activities, particularly in satellite courts.

Three of the seven Support Workers noted the risk to children of revictimization through their involvement with the criminal justice system.

4.3.7 Children's Needs in Relation to Current Services Within the Criminal Justice System: Implications of Key Findings

From interviews with parents and Support Workers we are able to gain a picture of the experience of children who testify about their own victimization in criminal courts in Nova Scotia.

Children experience significant anxiety leading up to the day of court, apprehension that is most often displayed in behaviours that cause them to withdraw from others. Their main fear is of having to face the accused in the courtroom; most in fact do.

Our data suggests there is an under-recording of meetings with Crown attorneys, raising implications for program follow-up to ensure this data is captured. Alternatively, the data may suggest that either not all children in this sample met with the Crown attorney prior to the day of court, or the first and only meeting was on the day of court itself. Either possibility raises clear implications for future practice. Sas (1999) notes that in prior meetings Crown attorneys can learn about young witnesses' verbal comprehension, level of anxiety, fears, maturity, distractibility, and concentration. Without this information the ability of the child to convey the truth of her/his experience in an adult environment is jeopardized. Further, children's level of anxiety may be expected to diminish considerably when adequate rapport is built with the Crown who will have a most intimate knowledge of their victimization.

The lack of a child-appropriate waiting area in all cases was made evident, particularly in satellite courts. While the waiting room in each of the regional offices, located in the court facility, is equipped with children's activities, this is not the case on a province-wide basis. The fact that children could sometimes see the accused while waiting, and that there were typically no age-appropriate activities present beyond what was provided by the Support Worker, reminds us that children are participating in an adult environment where their needs are yet to be fully incorporated.

Support Workers have identified areas specifically related to the CVWP that require further improvement: curriculum resources, training, and follow-up services.

The practice of dispensing with other items on the court docket prior to hearing the case in which

the child is to testify, while intended to assist children by having fewer people present when they testify, has the detrimental effect of increasing the time children must wait. Regardless of age, pre-trial waiting beyond one hour is perceived as agonizing for children.

Children experience significant stress while testifying about their own victimization. This study has determined that many police, Crown attorneys and judges are aware of, and sensitive to the difficulties children experience; though recognizing the differing role of defence lawyers, interviewees gauged them as much less sensitive. This study has also determined that further work is necessary in relation to children's examination on the stand, to ensure their appropriate treatment.

The provisions of Bill C-15 more than a decade ago, for the use of testimonial aids when children testify, are not widely used in Nova Scotia. Appropriate use of the screen requires further study that incorporates individual children's needs and consequences of its use.

Parents and Support Workers have offered clear recommendations for changes to increase children's comfort and lessen their trauma while participating in the adult environment of criminal court. To best serve the administration of justice, these, and other considerations emerging from the study will be considered in the context of examining the conditions under which children may be expected to provide the most accurate testimony.

5.0 DISCUSSION AND RECOMMENDATIONS

The work of Regan and Baker (1998) raises the dilemma that remains current for those who bear the responsibility of providing the critical service of court preparation to children who will be called to testify in criminal court. They note that the very techniques employed to help children to cope with the trauma associated with testifying may increase the likelihood that the manner in which they deliver their testimony will raise doubts about their credibility in the minds of jurors. This finding led to two suggested options to increase the likelihood that the demeanor of children would correspond with what they determined jurors expect to see:

- reduce the delay between the reported offence and the trial date; reduce the number of interview sessions; reduce the amount of preparation children receive prior to testifying, or

- increase reliance by the courts on measures that would prevent the child's face-to-face confrontation with the accused, e.g., videotaped testimony, closed-circuit television, or screens.

Further, the literature suggests that convictions are more likely (Hamblen & Levine, 1997), as are longer sentences (Sas et al., 1993) when live testimony is heard.

The "twin, but potentially opposed aims" discussed by Wachtel (1997) further illuminate the continuing dilemma of how best to support the needs of children in an existing adult system, and whether the particular needs of children can coexist with the requirement of ensuring a fair hearing

for the accused. Wachtel also proposes two streams of change, emphasizing:

- physical changes to courtroom layout to better accommodate children, and
- changes in practice that progressively remove the child from the courtroom and potentially from the courthouse.

While both streams identified by these studies focus on the needs of children, following the former suggestions leads to changes that focus on legal intervention and prosecution in accommodating children to an existing justice process designed for adults. Following the latter suggestions constitutes changes that, it may be argued, focus primarily on helping children deal with their victimization. While it is evident that both streams of change are necessary, the risk of retraumatizing children in an adult justice process remains. Empirical study on the long term effects of testifying is an area for continued research, as is the unexplored effect of "the legal system's involvement on the victim's treatment", i.e., disruption of therapeutic interventions (Levesque, 1995, p. 76).

Recommendations have been formulated in six key areas: program operation, waiting for the day of court, the day of court, after testifying, professional training, and implementation. This report concurs with Sas (1999), that many recommendations are not new, but have not yet been routinely implemented.

Program Operation

Interviews with parents and Support Workers revealed important areas for program consideration:

1) the curriculum tools, modified at the conclusion of the pilot program to accommodate the primary age group of children served, are still perceived to inadequately serve older adolescents;

2) in recognition that individual client circumstances often do not fit within a prescribed program format, the number of allowable sessions and fee structure is perceived to be limiting, particularly in cases involving young children, children with special needs, and in cases resulting in acquittal. While it is recognized that the program permits extra client sessions upon approval, this policy appears to be unclear in practice, as Support Workers are regularly providing services for which they are not being remunerated;

3) the program is not presently representative of the diversity of cultural and linguistic groups in Nova Scotia. It is anticipated an Aboriginal Outreach Project (six month pilot) will begin in Halifax and the central region in the near future, and the Victims' Services Division would like to conduct a similar project in the Black community. The intent is to provide education about the CVWP, liaison, and develop culturally sensitive materials;

4) given that the complement of Support Workers is primarily female, the program does not have the ability to provide services by male workers if requested by clients. While it is

recognized the majority of clients request a female Support Worker, the program currently does not have the capacity to offer a Support Worker of either gender.

It is recommended that the Victims' Services Division develop a process to review curriculum tools and fee structure, examine and address service gaps and barriers identified, and maintain efforts to serve a diverse population of children, with sensitivity to culture and gender.

While it is evident from our data that not all parents perceive their children require counselling or other compensation previously provided by the Criminal Injuries Compensation Program, it is also apparent that where parents indicated they did need assistance in completing an application, they did not always receive this service. Further, it may be that parents were not always told about the services available through the Criminal Injuries Compensation Program, as in only 30% of cases application was made.

Support Workers' recognition of children's need for counselling, coupled with the relatively small number of applications received for CIC funded counselling may point to the dilemma inherent in the present system. Children are encouraged to report abuse, but in reporting, a therapeutic intervention they may require may be disrupted or delayed while the case proceeds through the criminal justice system. Therapy at that stage, with the associated possibility of contamination of evidence or witness suggestibility, risks compromising the outcome of the case. It may be argued that both the therapeutic intervention and a guilty finding are in "the best interests of the child". It is clear that an answer to this dilemma remains to be found.

It is recommended that the Victims' Services Division develop a process to investigate if children who require counselling are adequately being served, reasons why more children are not applying to the Criminal Injuries Counselling Program, and what would make the application process more accessible when families want to apply.

It is recommended that applications to the Criminal Injuries Counselling Program be encouraged in every case, and that applications involving children have priority for immediate processing.

Waiting for the Court Day to Arrive

Data from this study reveal that meetings with the Crown may, in some cases, occur just before court, and children may meet with the Crown attorney only once before testifying. As noted earlier, this may leave insufficient time to learn essential information about the child's demeanor, emotional condition, and ability to provide accurate testimony. Further, rapport building is considered a critical component of supporting child witnesses, to reduce their fear and lessen their anxiety.

This study concurs with the recommendation of Sas (1999) who states that:"[c]hildren should have the benefit of at least three meetings with their Crown Attorney; the first to build rapport, the second to review their evidence and the third as a follow-up, before testifying in court. This should be offered not only to child victims, but also to children who are witnesses. Crowns should re-meet children before the trial, even if they have already met with them several times before the preliminary hearing" (p. 75).

It is recommended that Crown attorneys meet with child victim witnesses at least three times before they are required to testify, for the purposes described by Sas (1999).

One of the critical findings of this study was the average length of time taken for cases to proceed through the system. It is noted that one of the 19 cases selected in the study for parental interview was postponed three times over a "couple of years". The most frequent suggestion received from parents was that this time frame from investigation to trial be shortened. Further, the finding that the average time was longer for cases that were stayed, withdrawn, or dismissed suggests that there is insufficient examination of cases early enough to determine if there is enough evidence to proceed. The passage of time can have a negative impact for children's psychological well-being, for the quality of children's memory recall, and ultimately for the Crown's case. In the words of one Support Worker, "six months to a child is forever .... They can't even comprehend sometimes ... kids that age trying to remember .... It's pretty easy to create reasonable doubt".

During this time of waiting children's "immediate need to tell" is denied, creating one of the most disturbing aspects of their revictimization. They may have been told by their abuser over a period of months or years, not to tell "the secret". Having made the secret known, they may be again denied the opportunity to speak. Therapy may be delayed until the outcome of the case. The Support Worker, providing a non-evidentiary service, must take care to avoid speaking with the child of details of her or his victimization. The child's parent or supportive adult may be instructed also to avoid discussions with the child of the details of the incident(s).

It is recommended that cases involving children be given priority attention for Crown review, that Crown pursue the earliest possible trial dates, and that cases be moved through the court system as quickly as possible.

The Day of Court

In addition to lessening the time from investigation to trial, this study concurs with earlier reports that advocate a decrease in the time children wait on the day of trial. The well-intentioned practice of dispensing with other items on the court docket prior to hearing the cases in which children are scheduled to testify, extends the pre-trial wait and creates an uncertainty that compounds the anxiety children are already experiencing.

Several options might be considered to avoid a sometimes lengthy wait for children following the usual 9:30 am sitting of court:

1) schedule children's cases at 2 pm. While this might be a valid option for adolescents, for very young children this is clearly not an optimum time;

2) provide a more realistic time for children to arrive, e.g., 11 am after other items on the docket have been addressed. This however, could recognizably create scheduling difficulties;

3) hear cases in which children are scheduled to testify at the beginning of the day. This option however, would require other cases to be scheduled later to avoid the presence in the courtroom of those unrelated to the case, when the child testifies;

4) schedule special times or sittings to accommodate the special needs of children.

It is clearly evident that Crown recognize the necessity of accommodating the special needs of children. The degree of accommodation necessary however to integrate children within the time frame of regular sittings of court is evident as well. This report questions if the necessary degree of accommodation is possible without a significant scheduling change.

It is recommended that special times or sittings of court be scheduled to reduce or eliminate pre-trial waiting for child victims.

There are only four courthouses in the province where Victims' Services offices, equipped with child-friendly waiting rooms, are located. There are many other courthouses where a separate waiting area, with age-appropriate activities is currently unavailable to children who are scheduled to give evidence. It is recommended that this deficit be remedied as quickly as possible. *The Victims' Rights and Services Act* (1989) provides this as a right to victims of crime, subject to availability of resources. Both parents and Support Workers, in addition to describing the discomfort of "dingy" waiting areas, spoke of children experiencing subtle threats and intimidation from the accused or the accused's family while they were waiting to testify. In some instances where a separate waiting area was arranged, the child was forced to encounter the accused in the hallway leading to the washroom.

It is recommended that child-friendly waiting areas be made available in every court where children are scheduled to testify, that age-appropriate activities be available, and that while waiting, children have access to washroom facilities without having to encounter the accused or the accused's family.

Support Workers who have dealt with the majority of cases involving child victims during the time

period of this study described the competency hearing as confusing and awkward for children. Though judges were recognized to be generally sensitive to children's needs, examples were cited of instances where language used was well beyond children's comprehension.

The Nova Scotia Department of Justice's response to the recent federal consultation paper, *Child Victims and the Criminal Justice System* (1999), supported the elimination of the requirement for a competency hearing. It was suggested the hearing not only delays court proceedings unnecessarily, but it is also wrong in principle to make competency contingent on or influenced by age.

Until possible changes are considered, and while present practice continues, guidelines for questioning children are supported.

It is recommended that guidelines of prepared questions offered by Sas (1999) (included as Appendix E) be widely distributed among the judiciary within Nova Scotia.

It is recommended that the Nova Scotia Department of Justice continue to support the elimination of the requirement for a competency hearing.

This study revealed that several parents assessed defence lawyers as showing little consideration for the difficulties children experience while testifying. Though recognition was stated for their differing role, examples were cited of behaviour during cross-examination that was highly intimidating for children. One parent strongly believed her child "was put on trial"; others believed that defence lawyers used their understanding of children's vulnerability to their advantage. Parents expressed distress at having to watch, and not being able to protect their children on the stand. At times judges reportedly intervened to ensure children's fair treatment. Support Workers also noted insensitive behaviour by defence lawyers toward children on the stand, with recognition stated that "sensitivity conflicts with their job". This study strongly concurs with earlier reports (Sas, 1999) in stating there can be no justification for such treatment. The purpose of the court is to serve the administration of justice. Apart from the fact that justice cannot be seen to be served when child victims experience intimidation, is the reality that *The Victims' Rights and Services Act* (1989, 3(1)(a)) has afforded to victims of crime the absolute right to be treated with courtesy, compassion and dignity.

It is recommended that guidelines be developed for defence lawyers regarding cross-examination of children. Guidelines should include age-appropriate questioning, and respect for, and sensitivity to children's inherent vulnerability.

Earlier reports have emphasized the importance of the use of the testimonial aids stipulated in Bill C-15. It is clear from our study that those aids are seldom used within Nova Scotia. The Nova

Scotia Department of Justice's response to the federal consultation paper, *Child Victims and the Criminal Justice System* (1999), supported testimonial aids such as screens and closed-circuit television being more widely available. In addition to recognizing the request must not be contrary to the interests of the accused, that response advocated that "[i]nclusion of 'the best interests of the child' in the grounds to be satisfied in assessing use of a testimonial aid is considered to be beneficial as it recognizes that minimizing the witness' stress was not an objective of the previous legislation" (The Nova Scotia Department of Justice, 2000).

This study reveals however, that not only are testimonial aids seldom used within this province, it is evident that the benefit, particularly of the screen and videotaped investigative interviews as they are presently used, is in question. In addition to logistical considerations, it is the perception of some Support Workers that Crown attorneys believe the screen impedes an accurate assessment of how the child will respond to the accused. Inherent is the expectation of a certain demeanor associated with truth, which Regan and Baker (1998) had identified. Further, Support Workers perceive the screen, in some cases, actually compounds rather than reduces children's fear, by removing what minimal control the child has in the situation, i.e., visual confirmation of the accused's position within the courtroom. Support Workers also questioned the value of videotaped investigative interviews, for their poor audio quality, the increase in time required for children on the stand necessary to review and adopt the tape, and for the defence lawyer's ability to use it as a tool to discredit the child's earlier testimony.

Results of this study suggest that there is a nearly equivalent likelihood of conviction whether or not children testify, though caution is expressed about the validity of this comparison. Our finding in relation to outcomes at trial confirms that of earlier studies (Sas, 1999), i.e., the probability of a finding of guilt is only slightly better than chance. There is clear reason to question the participation of already vulnerable children in a process that is known to cause them considerable stress, when their participation may not be a determining factor in the outcome.

Based on these results, it is evident that further investigation of alternative means of protecting "the best interests of the child"is required. It is recognized that provisions are available in other countries (United States, Scotland, Israel) that allow for video depositions to be used instead of children having to testify at trial (*Technical Background Paper*, p. 52). Such a provision might alleviate the singularly most stressful component of children's participation in the criminal justice system, that of once again facing the accused. Further thought would have to be given to find a way to ensure the rights of the accused within Canada. This exploration is encouraged.

It is recommended that alternative means continue to be explored to gain "a full and candid account" (*C.C.* s 486 (2.1) while safeguarding the best interests of the child, by preventing the child's face-to-face confrontation with the accused. Where children choose to personally give evidence, the opportunity for courtroom testimony should be provided.

After Testifying

One of the clear findings of this study was the need identified by both parents and Support Workers to increase follow-up services after children testify. This was a critical area noted by parents where needed service was sometimes not received. Three of the seven Support Workers expressed a concern that the allowable time for follow-up with children is insufficient. Current debriefing sessions are, in some instances understood to focus on reinforcing to the child that s/he did a good job while testifying. In some instances when the case has been held over for sentencing the child has not been informed of the outcome.

It is recommended that the court preparation curriculum be expanded to enhance the debriefing and follow-up component, to provide children with an opportunity, not only to know they have done a good job in testifying, but to express their feelings about what happened during the court process. It is further recommended that when cases are held over for sentencing, Support Workers be in attendance whether or not the child is present, and communicate the results to the child and her/his supportive adult.

This follow-up role, important for all children, is particularly critical in cases resulting in acquittal, when children may be coping with significant issues associated with grief and loss. Both the literature and response in parent interviews clearly confirms this is a particular area of need. Some of the Support Workers indicated that they do not have a sufficient level of comfort to confidently address the variety of issues that may be expected to arise. A specific request was made for further training.

It is recommended that the Victims' Services Division provide training for Support Workers in providing assistance to children when cases result in acquittal.

Support Workers noted that counselling through the Criminal Injuries Compensation Program is sometimes denied in cases resulting in acquittal, leaving the child's possible need for counselling unmet. It should be noted that, within the context of the criminal justice system the Criminal Injuries Counselling Program, as it is now termed, provides funding for counselling where, on a balance of probabilities, a violent crime has been committed. An inability to provide funding in those cases where there is not sufficient evidence to determine on a balance of probabilities that a violent crime has been committed, does not however, deny the fact of the child's emotional or psychological need. It is clearly recognized that a service gap may exist, and the child's need for counselling must be addressed.

It is recommended that Regional Victims' Services Offices explore every avenue to access counselling for children who do not qualify to receive counselling through the Criminal Injuries Counselling Program.

Professional Training

Earlier studies have recommended, as Support Workers have identified in this study, that the onus is on justice personnel to convey sensitivity to child victims. As children will, in many cases, not be able, nor should they be expected to, take the initiative to ask permission to ask questions, or to disagree with the claims and statements of adults, it is imperative that justice personnel extend themselves in relation to children. Even small gestures are known to make a considerable difference. Within the courtroom, the judiciary bear the responsibility of intervening to ensure the appropriate treatment of children.

Further, information and awareness in relation to the variety of children's emotional responses to their victimization may be critical in relation to three areas: 1) to assist Crown in assessing children's level of anxiety and ability to be reliable witnesses, 2) to alleviate possible reluctance by Crown to request the use of the screen where it could benefit the child, due to the perception that not using it provides a truer sense of how the child responds to the accused, i.e., children are perceived to be more credible when they break down, and 3) to assist judges' charge to juries, to offset the possible assumption that expected displays of emotion equate with truth.

For the role of child victim witnesses to be fully integrated within the criminal justice system, it is vital that police, Crown attorneys, judiciary, defence lawyers, as well as courtroom personnel, receive ongoing training in the stages of child development, age-appropriate questioning, and children's emotional response to victimization.

> It is recommended that ongoing professional training be provided to justice personnel involved in cases with child witnesses, in relation to sensitivity to children's developmental needs, and appropriate methods of communication.

Finally, it is evident from this study that an ongoing need exists for greater awareness of the Child Victim Witness Program among justice personnel. The program is still relatively new within the Department of Justice, and the need for ongoing promotion is not unexpected. Though Support Workers indicated that a collaborative process has developed in many cases with the Crown, increased public and professional awareness was advocated to ensure all children are referred early in the criminal justice process so they receive the support available to them through the program.

> It is recommended that the Victims' Services Division increase efforts to promote the services of the Child Victim Witness Program to police and Crown attorneys, and to the general public.

Implementation

It is recognized that the implementation of these recommendations can best be accomplished through

the joint efforts of many partners who currently provide services to children both within government and community, throughout the various phases of investigation, prosecution, and treatment. The perception of all partners is critical in determining the implications for children of the courtroom experience on efforts to deal with their victimization, and in identifying present obstacles and the best processes for change.

It is recommended that a committee be established consisting of representatives of the Department of Justice, the Public Prosecution Service, and child welfare agencies, to explore implementation of the issues identified in this report.

Future Research

Each of these recommendations has addressed specific components of current practice that are believed to promote conditions under which children may be expected to provide the most accurate testimony. As such, they largely represent a focus on interventions to accommodate children to an existing justice process designed for adults. These recommendations however, have also sought to address "the best interests of the child", through a focus on helping children deal with their victimization.

This study echoes earlier reports in suggesting that changes to date to accommodate children within the criminal justice system, though beneficial, have not gone far enough. It is evident that the risk to children of their trauma being relived in the courtroom is reason alone to validate a differing approach to their participation.

Prior to becoming Chief Justice of The Supreme Court of Canada, The Honourable Beverley McLachlin, in a presentation at a training session for all Nova Scotia judges in 1998, stated that "impartiality does not require indifference to the needs of victims". When child victims are involved in a justice system created for adults, and where their needs are yet to be fully integrated, that caution is particularly critical. Sas et al. (1993), despite finding that child victims held negative perceptions of their court experience, did not conclude that children should not be called upon to testify. Sas et al. compared children's experience to the poor treatment of rape victims and battered women by the courts that researchers had previously documented, suggesting their findings had led to advances in how these groups had been received in the justice system. The more strongly worded conclusion of Sas (1999) cities the Victoria Child Abuse Prevention and Counselling Society's brief to the British Columbia Attorney General Department that suggests children's treatment in the courtroom violates their rights to protection from abuse (based on the U.N. Convention on the Rights of the Child). Sas concludes "[i]f we are sincere in our efforts to protect children from victimization, we **must** accept responsibility for their victimization in the courtroom and make the necessary changes" (p. 86).

This report concurs. Children do not have the cognitive ability to understand or defend against their victimization and their subsequent treatment when that victimization is examined in the courts. Their situation is not comparable to that of adult victims. As such, it is the responsibility of adults,

not only to protect them from victimization, and to protect their right to respectful treatment in determining if a crime has been committed, but also, to ensure that the experience itself does not inflict further harm. It is the responsibility of the criminal justice system to continue to grapple with the "twin, but potentially opposed aims" of supporting child witnesses and ensuring the accused of a fair hearing.

6.0 BIBLIOGRAPHY

Activity Report. (1996-1997) Victims' Services Division, Nova Scotia Department of Justice.

Activity Report. (1997-1998) Victims' Services Division, Nova Scotia Department of Justice.

Alexander, Rudolph Jr. (1995) Recent Legal Trends in Child Sexual Abuse Cases: Direction for Child Protection Workers. *Child and Adolescent Social Work Journal* 12(3), 229-240.

Anderson, Julie A. (1997) The Sixth Amendment: Protecting Defendants' Rights at the Expense of Child Victims. *The John Marshall Law Review* (ISSN: 0270-854X), 767-802.

Andrews, David. (October 18, 1999) Interview, *As It Happens,* CBC Radio.

Anglin, James P. (1999, September 28) Panel Presentation, Protecting Children in Situations of Risk, *Working Together for Children, Protection and Prevention, A Conference on Child Victimization and Child Offending*. Justice Canada: Hull, Quebec.

Ayed, N. (1998). Courts, lawyers don't take sex assaults seriously - report. *The Chronicle Herald.* September 18, Halifax.

Bala, Nicholas. (Publication pending) Child Witnesses in the Canadian Criminal Courts: Recognizing Their Capacities and Their Needs. *Psychology, Public Policy and the Law* on *Hearsay Testimony in Trials Involving Child Witnesses*, edited by Ross, Warren and McGough.

----------. (1993) Criminal Code Amendments to Increase Protection to Children and Women: Bills C-126 & C-128, *Criminal Records* 21 C.R. (4th) 365-386.

----------. (1990) Double Victims: Child Sexual Abuse and the Canadian Criminal Justice System. *Queen's Law Journal* 3-32.

----------. (1995) *Searching For the Truth: Children's Evidence in Abuse Protections*. Kingston, Ont.: Queens University.

Bottoms, Bette L. and Goodman, Gail S.(Eds.). (1996) *International Perspectives on Child Abuse and Children's Testimony*. London, New Delhi: SAGE Publications.

Bruck, Ceci & Hembrooke(1997)/Abstract,http://www.people.cornell.edu/pages/sjc9/recollections oftrauma.html

Cairns, James. (1999, September 28) Panel Presentation, Protecting Children in Situations of Risk, *Working Together for Children, Protection and Prevention, A Conference on Child Victimization and Child Offending*. Justice Canada: Hull, Quebec.

Campbell Research Associates Social Data Research Limited. (1992, June) *Program Review of the Child Victim-Witness Support Project*. Department of Justice Canada.

Canadian Centre for Justice Statistics (1997) *Assaults Against Children and Youth in the Family, 1996.* Juristat Service Bulletin, 17(11), Statistics Canada, Catalogue 85-002-XPE.

----------. (1991) *Children as Victims of Violent Crime.* Juristat Service Bulletin, 11(8), Statistics Canada, Catalogue 85-002 ISSN 0715-217X.

----------. (1998, May) *"Delay" in Criminal Courts*, Bulletin, Statistics Canada.

----------. (1992) *Teenage Victims of Violent Crime.* Juristat Service Bulletin, 12(6), Statistics Canada, Catalogue 85-002 ISSN 0715-271X.

----------. (1998, October) *Victims of Violent Crime,* Bulletin, Statistics Canada.

CBC Radio News. (September 18, 1998).

Ceci, Stephen J. & Bruck, Maggie (1995). *Jeopardy in the Courtroom: A Scientific Analysis of Children's Testimony*. Washington: American Psychological Association.

Child Victims (1999) *New Directions From the Field: Victims' Rights and Services for the 21st Century*, Chapter 17, http://www.ojp.usdoj.gov/ovc/new/directions/chap17.htm

Child Witness Project, London Family Court Clinic, http://www.lfcc.on.ca/cwp.htm.

Clark, Sheila, & Associates (1996) *Working With Aboriginal Child Victim Witnesses*, British Columbia: Ministry of Attorney General.

Collins Management Consulting and Research Ltd. (1996) *An Evaluation of the Victims' Services Division*. Dartmouth, NS.

CSA Presentation - The Child Sexual Abuse Accommodation Syndrome, (2000) *A Hypothetical Model Concerning the Effects of Child Sexual Abuse: Implications for Treatment and Research*, http://auseinet.flinders.edu.au/workshops/csapre30.html

Department of Justice Canada. (1989) *The Secret of the Silver Horse.*

Department of Justice Canada. (1999, November) *Child Victims and the Criminal Justice System: A Consultation Paper.*

deVink, Sandra. (1999, September 28) Panel Presentation, Protecting Children in Situations of Risk, *Working Together for Children, Protection and Prevention, A Conference on Child Victimization and Child Offending*. Justice Canada: Hull, Quebec.

Eastwood, Donna. (1999, September 28) Panel Presentation, Information Sharing and Reporting, *Working Together for Children, Protection and Prevention, A Conference on Child Victimization and Child Offending*. Justice Canada: Hull, Quebec.

Editorial. (1999) Child Witnesses in Sexual Abuse Cases: How is a Child Supposed to Answer THAT! *The Voice: Victims of Violence Newsletter*, March, 10-11.

Editorial. (1998). Rape myths demystified. *The Chronicle Herald*, September 21, Halifax.

Family Violence in Canada: A Statistical Profile. (1999) Statistics Canada, Catalogue 85-224-XPE.

Federal Legislation Strengthening the Voice of Victims of Crime. (1999, April 15) http://canada.gc.ca/News/Communiques/1999/victimsbck_en.html

14 Year Old Questioned by Accused. (1998) *NJN Update* 4(7), 2.

Garneau, Grant. (1999, September 28) Panel Presentation, Nature of Serious Abuse, Neglect and Harm, *Working Together for Children, Protection and Prevention, A Conference on Child Victimization and Child Offending*. Justice Canada: Hull, Quebec.

Giovannetti, Dana. (1993) Alternatives to Silence, Extending the Hearsay Rule: R. v. Khan. Nova Scotia Department of Justice, Public Prosecution Service, 1-16.

Goodman, Gail S., Redlich, Allison D., Qin, Jianjian, Ghetti, Simona, Tyda, Kimberly S., Schaaf, Jennifer M., and Hahn, Annette. (1999) Evaluating Eyewitness Testimony in Adults and Children. *The Handbook of Forensic Psychology*, New York, NY: John Wiley & Sons, Inc., 218-272.

Hamblen, Jessica Liebergott, and Levine, Murray. (1997) The Legal Implications and Emotional Consequences of Sexually Abused Children Testifying as Victim-Witnesses. *Law and Psychology Review* 21, 139-179.

Kirk, Raymond S. (n.d.) Methodological Issues in Measuring Outcomes. *Protecting Children* 10(2), 7-9, printed from remarks made at the First Annual Roundtable on Outcome Measures in Child Welfare Services, held in San Antonio, Texas, March 11-13, 1993.

Lampinen, J.M., and Smith, V.L. (1995) The Incredible (and Sometimes Incredulous) Child Witness: Child Eyewitnesses' Sensitivity to Source Credibility Cues. *Journal of Applied Psychology* 80, 621-627.

Levesque, Roger J.R. (1995) Prosecuting Sex Crimes Against Children: Time for "Outrageous" Proposals? *Law and Psychology Review* 19, 59-91.

Lindsay, Dr. Rod, and Pozzulo, Joanne. (1997, April 29) *Queen's psychology research to help child victims of sexual assault get convictions*, http://www.queens.ca/alumni/com/police.htm.

London Family Court Clinic, Inc. (1996) *What You Should Know After the Verdict, Information for Young Victims of Crime and Their Families*. London, Ontario.

Luckock, Barry (1997) Book Review, *International Perspectives on Child Abuse and Children's Testimony: Psychological Research and Law*, Bette L. Bottoms, Gail S. Goodman (Eds.), Thousand Oaks, London, New Delhi, SAGE Publications, 1996, 312 pp. In *British Journal of Social Work* 27, 469-470.

Lyle, Charles Gene (n.d.) Client Outcome Evaluation in a Large Public Social Services Agency: The Ramsey County Experience. *Protecting Children* 10(2), 9-13, printed from remarks made at the First Annual Roundtable on Outcome Measures in Child Welfare Services, held in San Antonio, Texas, March 11-13, 1993.

Macdonald, Kirsty. (1993) Expert Witnesses in Child Abuse Cases: Post Traumatic Stress Disorder, and The Phenomena of Recantation, in Susan Potts and Leslie Mitchell, *Child Abuse Prosecutions and the Crown Attorney*, Nova Scotia Public Prosecution Service, pp. 13-28.

Manitoba Government News Release. (2000, April 10) "lService, Info."ISERVICE@leg.gov.mb.ca

Marshall, Carolyn, Rumscheidt, Heidi, Pottie-Bunge, Valerie, Molloy, Debbie, and Lauchlan. James, (1994) *The Response of the Justice System to Family Violence in Nova Scotia: A Report of the Nova Scotia Family Violence Tracking Project*. Halifax, Nova Scotia Department of Justice.

McPherson, Barbara. (1996) *The Child Victim/Witness Pilot Project*. Victims' Services Division, Department of Justice, Nova Scotia.

Melnyk, Laura. (1999) Suggestibility in Young Children. *Advances in Consumer Research*, 26, 92-93.

Myers, John E.B. (1996) A Decade of International Legal Reform Regarding Child Abuse Investigation and Litigation: Steps Toward a Child Witness Code. *Pacific Law Journal* 28, 169-241.

---------- . (1995) New Era of Skepticism Regarding Children's Credibility. In *Psychology, Public Policy and Law*. American Psychological Association, Inc., http://www.pbs.org/wgbh/pages/frontline/shows/innocence/readings/myers.html

National Overview of Programs and Services for Young Victim/Witnesses. (1996) *Viva Voce* 1(2), 5-15.

Nilson, Honourable John T., Q.C. (1998) *Meeting the Needs of Victims of Crime in Saskatchewan*, Prepared for the House of Commons Standing Committee on Justice and Human Rights.

Oxman-Martinez, Rowe, William S., and Straka, Silvia M. (1998) Dichotomy Between Disclosure of Sexual Abuse and the Child Welfare System's Response. *The Social Worker* 66(3), 56-65.

Park, Laura, and Renner, K. Edward . (1999) *Challenging the Legal System for Children*, http://www.carleton.ca/~erenner/objca.htm

Peterson, Carole. (1996) The Preschool Child Witness: Errors in Accounts of Traumatic Injury. *Canadian Journal of Behavioural Science* 28, 36-42, http://www.cpa.ca/cjbsnew/1996/ful _peterson .html

Phaneuf, Gordon. (1999, September 28) Panel Presentation, Data Needs for Timely Intervention, *Working Together for Children, Protection and Prevention, A Conference on Child Victimization and Child Offending*. Justice Canada: Hull, Quebec.

Public Opinion on the Justice System, (1998, October 29-30) Minister's Meeting, Saskatchewan.

Regan, Pamela C., & Baker, Sheri J. (1998) The Impact of Child Witness Demeanor on Perceived Credibility and Trial Outcome in Sexual Abuse Cases. *Journal of Family Violence* 13(2), pp. 187-195.

Renner, K. Edward. (1999) *Challenging the Legal System*, http://www.carleton.ca/~erenner/ legal.htm

---------- .(1999) *Documenting the Outrageous*, http://www.carleton.ca/~erenner/ctwatch.htm

----------. (1999, January 13) Interview, Edward K. Renner, *Information Morning*, CBC Radio.

Renner, K. Edward, and Park, Laura. (1999) *Documenting the Outrageous for Children*, http://www.carleton.ca/~erenner/nsap.html

Ricci, Christine M., and Beal, Carole R. (1998) Child Witnesses: Effect of Event Knowledge on Memory and Suggestibility. *Journal of Applied Developmental Psychology* 19(2), 305-317.

Richardson, Gina. (1995) Understanding the Development of Children's Language Can Help Adults Communicate Better. *National Resource Center on Child Sexual Abuse News* 4(3), 6-7.

Rosenfeldt, Gary. (1999) Letter From the Editor. *The Voice: Victims of Violence Newsletter*, March, i-ii.

Russell, Heather. (1999) *In Touch*, Victims Services, Saskatchewan Justice, 3(1), Spring.

Ryan, Karen. (1999, September 28) Paper Presentation, Collecting Information to Help Develop More Effective Interventions to Protect Children: Criminal Justice System Response to Child Abuse and Neglect, *Working Together for Children, Protection and Prevention, A Conference on Child Victimization and Child Offending*. Justice Canada: Hull, Quebec.

Sandt, Claire. (1996) Helping Lawyers Help Kids. *Child Law Practice* 15(5), 65-66, 70-71.

Sas, Louise. (1999) *I'm Doing My Job in Court, Are You?* London: Child Witness Network Agencies.

Sas, Louise Dezwirek, and Cunningham, Alison Hatch. (1995) *Tipping the Balance to Tell the Secret.* London: London Family Court Clinic Inc.

Sas, Louise, Hurley, Pamela, Hatch, Alison, Malla, Sue, and Dick, Trish. (1993) *Three Years After the Verdict.* London: London Family Court Clinic Inc.

Saywitz, Karen J. (1995) Improving Children's Testimony: The Question, the Answer, and the Environment. In M.S. Zaragova (Ed.) *Memory, Suggestibility, and Eyewitness Testimony in Children and Adults.* Newbury, CA: Sage., 113-140.

Saywitz, Karen J., and Camparo, Linda. (1998) Interviewing Child Witnesses: A Developmental Perspective, *Child Abuse and Neglect* 22(8), 825-843.

Saywitz, Karen J., Goodman, Gail S. (1996) Interviewing Children In and Out of Court: Current Research and Practice Implications. In John Briere, Lucy Berliner, Josephine A. Bulkley, Carole Jenny, and Theresa Reid (Eds.) *The APSAC Handbook on Child Maltreatment.* Sage Publications Inc., 297-318.

Saywitz, Karen J., Snyder, Lynn, Lamphear, Vivian. (1996) Helping Children Tell What Happened: A Follow-Up Study of the Narrative Elaboration Procedure. *Child Maltreatment* 1(3), 200-212.

Steinmetz, Melissa. (1995) Interviewing Children: Balancing Forensic and Therapeutic Techniques. *National Resource Center on Child Sexual Abuse News* 4(3), 1, 4-5.

The Voice: Victims of Violence Newsletter. (January, 2000) 6(8).

Thompson, Charles P. (1998) Abstract, The Bounty of Everyday Memory, in Charles P. Thompson, Douglas J. Hermann, et al. (Eds.) *Autobiographical Memory: Theoretical and Applied Perspectives,* pp. 29-44, Mahwah, NJ: Lawrence Erlbaum Associates, Inc.

Tuttle, Laurie. (2000, Summer) Youthful Witnesses in Domestic Violence Court: A Crown's Perspective, *Viva Voce*, London Family Court Clinic Inc., 3(2), 4.

Victims in the Justice System: Programs and Initiatives in British Columbia. (1998).

Viva Voce. (1999, Winter) 3(1), London Family Court Clinic Inc.

Wachtel, Andy. (1997) *Children & Other Vulnerable Witnesses: A Guidebook on Court Design,* British Columbia: Ministry of Attorney General.

----------. (1997) *Court Design Issues Affecting Children and Other Vulnerable Witnesses,* British Columbia: Ministry of Attorney General.

Walker, Nancy E., and Nguyen, Matthew. (1996) Interviewing the Child Witness: The Do's And the Don't's, The How's and the Why's. *Creighton Law Review* (ISSN:0011-1155), 1587-1617.

Weilenmann, Jane Fortson. (1998) Abstract, The Effects of Anxiety on Children's Memory of Their First Dental Visit, *Dissertation Abstracts International: Section B, The Sciences and Engineering*, 59(1-B).

What's My Job in Court? The Toronto Child Abuse Centre, http://www.tcac.on.ca

7.0 APPENDICES

Appendix A The Child Victim Witness Program: Curriculum

Appendix B The Child Victim Witness Program: Resources

Appendix C Parent Questionnaire

Appendix D Support Worker Questionnaire

Appendix E Sample Questions for a Judge Conducting an Inquiry Into the Oath

APPENDIX A

CHILD VICTIM WITNESS PROGRAM PROTOCOL

Investigation — **Police**, **Child Protection Services**

Decision Point — **End of Investigation**

Charge--No Charge

Step 1. Referral to Regional Victims' Services Program any time after the charge has been laid.

Step 2. Referral to Victims' Services Support Worker six weeks prior to the court date.

Step 3. Session #1 with child and Support Worker--1 hour.
Session #2 with child and Support Worker--1 hour.

Step 4. Consultation with Public Prosecution Service--Arrangement of Courtroom Tour.

Step 5. Child's meeting with Crown. The court tour may occur at the same time.

Step 6. Court accompaniment--if appropriate.

Step 7. Debrief.

Step 8. Booster with child prior to trial.

Step 9. Court accompaniment--if appropriate.

Step 10. Debrief with child following trial.
Victim Impact Statement.

Step 11. Needs assessment--outstanding issues; referral if necessary.

Step 12. Closure with child and Support Worker.

THE LEGEND

Definition of Terms:

Case	A case is the term used to identify an individual complainant. For example, if three children from a single family are provided service, these are three separate cases.

The Program Components:

Session I=SE1	Information about court etiquette, the roles and the key players and the role of a witness.
Session II=SE2	Practice in listening to complex questions to develop skills for cross examination.
Liaison=LIAS	Communication with the Crown Attorney and/or others involved in the child's case.
Meeting with the Crown=Meet	A meeting between the Crown Attorney and the child victim/witness prior to the day of the court hearing.
Court Room Tour =C Tour	The child and Support Worker are provided an opportunity to visit a court room, sit on the witness stand.
Court Accompaniment= CACCO	Court Accompaniment involves the attendance at court of a representative of the Victims' Services Division in order to provide emotional support to the child and family.
Debrief=Debrief	This provides an opportunity for the child and family to discuss their court experience and most importantly to discuss any fears or concerns that may have arisen as a result of the court experience. This service may be offered at the end of the day of court accompaniment or on a separate occasion.
Booster=Booster	This session is introduced prior to a Supreme Court Trial. It is a review session to ensure that the child's fears have been addressed and their questions answered.
Tour=Tour	This second opportunity to have a courtroom tour is most relevant when a different courtroom from the one attended for the Preliminary is to be used.

THE LEGEND Cont'd

Court Accompaniment= CACC	This term for the purpose of data interpretation refers to the service of court accompaniment at a Supreme Court Trial
Debrief 2= Debrief 2	This term refers to the discussion about the courtroom experience following attendance at a Supreme Court Trial.
Victim Impact Statement=VIS	This term refers to the assistance offered to a child and family in the completion of a Victim Impact Statement.

APPENDIX B

CURRICULUM RESOURCES

You're Not Alone (1995) Child Witness Court Preparation Program, The Canadian Society for the Investigation of Child Abuse.

Contents: A 32-minute video and 20-page comic book takes 9 year old Chris on a magic zapper ride to meet children of various ages who share their court experiences. Chris also visits a courtroom and watches as 10 year old Alice testifies.

What's My Job in Court? (1989) An answer and activity book for kids who are going to court. Ontario Ministry of the Attorney General.

Contents: This is an attractive and appealing resource, most appropriate for children between the ages of 4-12, though some young adolescents may enjoy it.

My Court Preparation Journal (n.d.) Victims' Services Division, Nova Scotia Department of Justice.

Contents: Adapted from material provided in **My Court Case**: Court Orientation Kit for Child Witnesses (1992), The Metropolitan Toronto Special Committee on Child Abuse, examples in this resource include a fear checklist, a true or false game and a list of people who are helping the child through the court process.

My Court Case: A Court Orientation Kit for Child Witnesses (1992), The Metropolitan Toronto Special Committee on Child Abuse.

Contents: Designed for children between the ages of 3-16 years, the kit includes 21 study cards that represent a variety of significant events related to testifying in criminal court, hand puppets to engage a child in role play, and a courtroom card and plastic stand-up figures.

APPENDIX C

CVWP Client Telephone Questionnaire

Background Information (to be compiled from program files)

Client Name	Telephone Number	Interview Date
Client File Number	CVWP Support Worker	Age (at intake)
Type of Offence	Office	Gender
Sexual Assault	Dartmouth	Female
Other Sexual	New Glasgow	Male
Physical Assault	Kentville	Referral Stage
Other	Sydney	

Hello, my name is _____ and I work for the Victims' Services Division of the NS Department of Justice. Your name was given to me by the Victims' Services office in _____. I am calling to ask you about your experiences with the Victims' Services, Child Victim Witness Program, and the criminal justice system.

Just as a reminder: you can answer only the questions you want to, you can stop at any time you want to, your name will not be given to anyone without your permission. The interview will take about 20 minutes of your time.

Person completing survey: Parent ☐ Child ☐

General

1.1a Before you were in touch with the VSD, did you know about the CVWP?

Yes ☐ No ☐

1.1b Did you have any expectations of how the CVWP would be able to help you?

Yes ☐ No ☐

Ask if Yes. If No, skip to Q2.

1.2 What were your expectations and needs? (Do not read list. Check all applicable boxes)

1.	Information about what was expected of you/your child *before* going to court.	
2.	Information about what was expected of you/your child *in* court.	
3.	Information about what to expect from others (such as the courts, police, judge, crown attorney, others) in the criminal justice system.	
4.	Help in understanding the court-related rules and procedures.	
5.	Help in getting you/your child ready for the court appearance.	
6.	Someone to go with you/your child to the court for the trial.	
7.	Names of agencies who could help you and /or your child.	
8.	Other (specify)	

2.0 Now, I am going to read you a list of services that the CVWP provides.

2.1 For each item I read, please let me know if you needed the service (Read list and check applicable boxes in Col. 2.1).

2.2 Did you get the service you needed? (Ask for each item checked in Col. 2.1 and record in Col. 2.2)

2.3 How important was each service you received to you and your child? On a scale of 1 to 5, with 1 being "Not at all Important" and 5 being "Very Important", how would you rate each service? (Ask for each item checked in Col. 2.1 and record in Col. 2.3)

Category	Not at all Imp.	Somewhat Unimp.	Neither Imp. or Unimp.	Somewhat Imp.	Very Imp.
	1	2	3	4	5

2.4 How well did each service received meet your needs? Would you say the service was ... (Ask for each item checked in Col.2.1 and record in Col. 2.4)

Category	Poor	Fair	Neither bad nor good	Good	Excellent
	1	2	3	4	5

Coding

		Q 2.1 Needed	Q 2.2 Rec'd	Q 2.3 Importance of service	Q 2.4 Service met needs
1.	Provided information about the trial			1. Not at all imp. 2. Somewhat unimp. 3. Neither imp. or unimp. 4. Somewhat Imp. 5. Very Imp.	Poor Fair Neither Bad nor Good Good Excellent
2.	Provided information about what was expected of you/your child in the court			1. Not at all imp. 2. Somewhat unimp. 3. Neither imp. or unimp. 4. Somewhat Imp. 5. Very Imp.	Poor Fair Neither Bad nor Good Good Excellent
3.	Provided information about who does what at the trial			1. Not at all imp. 2. Somewhat unimp. 3. Neither imp. or unimp. 4. Somewhat Imp. 5. Very Imp.	Poor Fair Neither Bad nor Good Good Excellent
4.	Referred to Community Services or another agency			1. Not at all imp. 2. Somewhat unimp. 3. Neither imp. or unimp. 4. Somewhat Imp. 5. Very Imp.	Poor Fair Neither Bad nor Good Good Excellent
5.	Provided information to you/your child at your/his/her convenience			1. Not at all imp. 2. Somewhat unimp. 3. Neither imp. or unimp. 4. Somewhat Imp. 5. Very Imp.	Poor Fair Neither Bad nor Good Good Excellent
6.	Arranged a court tour			1. Not at all imp. 2. Somewhat unimp. 3. Neither imp. or unimp. 4. Somewhat imp. 5. Very Imp.	Poor Fair Neither Bad nor Good Good Excellent

7.	Set up a meeting with the Crown Attorney			1. Not at all imp. 2. Somewhat unimp. 3. Neither imp. or unimp. 4. Somewhat Imp. 5. Very Imp.	Poor Fair Neither Bad nor Good Good Excellent
8.	Provided support and information after the trial			1. Not at all imp. 2. Somewhat unimp. 3. Neither imp. or unimp. 4. Somewhat Imp. 5. Very Imp.	Poor Fair Neither Bad nor Good Good Excellent
9.	Provided assistance on a Victim Impact Statement			1. Not at all imp. 2. Somewhat unimp. 3. Neither imp. or unimp. 4. Somewhat Imp. 5. Very Imp.	Poor Fair Neither Bad nor Good Good Excellent
10.	Provided information to you and your child at a convenient place			1. Not at all imp. 2. Somewhat unimp. 3. Neither imp. or unimp. 4. Somewhat Imp. 5. Very Imp.	Poor Fair Neither Bad nor Good Good Excellent
11.	Accompanied you/your child to court			1. Not at all imp. 2. Somewhat unimp. 3. Neither imp. or unimp. 4. Somewhat Imp. 5. Very Imp.	Poor Fair Neither Bad nor Good Good Excellent
12.	Provided assistance in applying for Criminal Injuries Compensation			1. Not at all imp. 2. Somewhat unimp. 3. Neither imp. or unimp. 4. Somewhat Imp. 5. Very Imp.	Poor Fair Neither Bad nor Good Good Excellent

2.5 What would you say were the two most important services you/your child received from the Program?

1. _____

2. _____

Waiting for Court

3. Now I am going to ask you about your (child's) experience while waiting for the case to come to trial.

3.1 How many times did you/your child meet with the VS Worker who prepared your child for court?

One ☐ Two ☐ Three ☐ More Than Three ☐

3.2 Would you/your child have preferred contact:

Category	Earlier in the process	Later in the process	Timing of contact was appropriate
	1	2	3

3.3 How many times did you /your child meet with the Crown Attorney?

None ☐ One ☐ Two ☐ Three ☐ More Than Three ☐

3.4 When did you first meet with the Crown Attorney?

Category	The Day of Court	Less Than One Week Before Court	One - Two Weeks Before Court	More Than Two Weeks Before Court
	1	2	3	4

3.5 Would you/your child have preferred contact with the Crown Attorney:

Category	Earlier in the process	Later in the process	Timing of contact was appropriate
	1	2	3

3.6 What did you/your child feel and think about during the time leading up to the first court date?

_____

_____

The Day of Court

4.1 Did you/your child have to testify more than once? Yes ☐ No ☐

If yes, how many? _____

Did you/your child testified at:

Preliminary Hearing ☐ Trial ☐ Don't Know ☐

4.2 I would like ask you to think about the trial day (if child testified at both)/prelim. (if test. only there)

What time of day did you/your child arrive at the courthouse?

9-10 am	10-11 am	11 am-12 pm	1-2 pm	2-3 pm	3-4 pm	4-5 pm

4.3 What time of day did you/your child testify?

9-10 am	10-11 am	11 am-12 pm	1-2 pm	2-3 pm	3-4 pm	4-5 pm

4.4 Where did you/your child wait?

_____

4.5 Was the space separate from where the accused person waited?

Yes ☐ No ☐

4.6 What activities were there for you/your child to do while you/he/she waited?

_____

_____

4.7 What do you (does your child) remember most about waiting to testify?

_____

_____

4.8 How long were you/was your child on the stand?

Less than one hr. ☐ One - Two hrs. ☐ Two - Three hrs. ☐

More than Three hrs. ☐ If more than three, how many hrs? _____

4.9 Who went into court with you/your child while he/she testified?

Category	Mother	Father	CVWP Support Worker	None	Other (specify)
	1	2	3	4	

4.10

		Yes	No	Didn't Matter
1.	Was the same Crown Attorney who met with you/your child before court present the day of court?			
	If no, would you have liked the same Crown Attorney to be there?			
2.	Was the court closed to the public?			
	If no, would you have liked it to be closed?			
3.	Could you/your child see the accused person when you/he/she testified?			
	If yes, would you/your child rather have not had to see the accused person?			
4.	Did you/your child testify from behind a screen?			
	If no, would you/he/she have liked to testify from behind a screen?			
5.	Did you/your child testify via closed circuit television?			
	If no, would you/he/she have liked to testify by closed circuit television?			
6.	Did you/your child say everything in the testimony that you/he/she had wanted to say?			
	If no, why not?			

4.11 What was worst part of testifying?

_____

_____

4.12 What was the best part of testifying?

_____

_____

4.13 What do you remember most about (your child) testifying?

_____

_____

_____

_____

4.14 If you could make changes, what two things you would change about the day of court?

1. _____

2. _____

4.15 I'm going to read some sentences that may relate to your experience. I'm going to ask you to rate them on a scale 1 - 5, with 1 meaning "Disagree completely" and 5 meaning "Agree completely".

Category	Disagree completely	Disagree somewhat	Neither agree nor disagree	Agree somewhat	Agree completely
	1	2	3	4	5

1.	The Crown Attorney used language you/your child could understand.	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely
2.	The Crown Attorney understood that testifying about a difficult experience was hard for you/your child.	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely
3.	The lawyer for the accused person used language you/your child could understand.	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely
4.	The lawyer for the accused person understood that testifying about a difficult experience was hard for you/your child.	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely
5.	The judge understood that testifying about a difficult experience was hard for you/your child.	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely
6.	Because of the help received from the VS Worker who prepared you/your child for court, you were (your child was) more informed about the whole trial process.	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely
7.	You/your child felt supported through the process by the VS Worker.	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely

8.	You were satisfied with the verdict. OR, if parent, You, as a parent, were satisfied with the verdict.	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely
9.	Now that you know the process of testifying in court you regret reporting the crime.	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely
10.	You/your child (is) are glad that you/your child testified. Why? _____ _____ _____	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely

4.16 Were there any postponements once the court dates were scheduled?

Yes ☐ No ☐

If yes, how many times? _____

4.17 In general, how satisfied were you with the handling of the case by the Justice system?

Category	Don't know	Very dissatisfied	Somewhat dissatisfied	Somewhat satisfied	Very satisfied
	1	2	3	4	5

4.18 What changes could be made to the Justice system to make it easier for young people?

A. While waiting for court

_____

_____

B. The day of court

_____

_____

C. After testifying

_____

_____

4.19 Do you have any other suggestions or comments about the criminal justice system?

_____

_____

_____

_____

APPENDIX D

CVWP Support Worker Telephone Questionnaire

Waiting to testify (before the court day arrives)

1.1 What do you think are the main concerns of children in the time leading up to the day of court?

_____

_____

1.2 Based on your experience what do you think are the main concerns of parents/supportive adults in the time leading up to the day of court?

_____

_____

1.3 What would you say are the two most important services you provide to child victim witnesses?

1. _____

2. _____

1.4 Are there gaps in service to child victims of crime that the CVWP is not able to address? Please elaborate. Yes ☐ No ☐

_____

_____

_____

1.5 Are there barriers to supporting child victims that the CVWP is not able to address? Please elaborate. Yes ☐ No ☐

_____

_____

_____

1.6 How often, in your experience have there been postponements after you prepared the child to testify?

Rarely ☐ Occasionally ☐ Quite often ☐ Very often ☐

The day of court
A) while waiting to testify

2.1 How often are cases involving child witnesses scheduled at the beginning of the day?

Rarely ☐ Occasionally ☐ Quite often ☐ Very often ☐

2.2 How long do children generally have to wait to testify?

Less than one hr. ☐ One - Two hrs. ☐ Two - Three hrs. ☐

More than Three hrs. ☐ If more than three, how many hrs? _____

2.3 What are the main concerns of children while they wait to enter the court to testify?

2.4 In your experience what are the main concerns of parents/supportive adults while waiting to testify?

B) while testifying

2.5 From your observation, what is the most difficult part of testifying for children? i.e., what is the main source of stress?

2.6 Based on your experience, what behaviours do children demonstrate that is indicative of their level of stress while testifying?

2.7 Is it usual or unusual for parents to be in court while their child is testifying?

2.8 From your observation, what is the most difficult part for parents/supportive adults when their children testify?

2.9 How often is the screen used?

Never ☐ Rarely ☐ Occasionally ☐ Quite often ☐ Very often ☐

What is your understanding of the reason for the frequency/infrequency?

2.10 In your experience how often have children testified by closed circuit television?

Never ☐ Rarely ☐ Occasionally ☐ Quite often ☐ Very often ☐

What is your understanding of the reason for the frequency/infrequency?

2.11 In your experience how often have children's videotaped investigative interviews been used at trial?

Never ☐ Rarely ☐ Occasionally ☐ Quite often ☐ Very often ☐

What is your understanding of the reason for the frequency/infrequency?

2.12 I am going to read some sentences in relation to your experience . I'm going to ask you to rate them on a scale 1 - 5, with 1 meaning "Disagree completely" and 5 meaning "Agree completely".

Category	Disagree completely	Disagree somewhat	Neither agree nor disagree	Agree somewhat	Agree completely
	1	2	3	4	5

1.	The Police/Crown appropriately convey accurate information about services offered through the CVWP	Police	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely
		Crown	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely
2.	Judiciary/Police/Crown/Defence lawyers deal with children in an age-appropriate manner and with age-appropriate language.	Judiciary	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely
		Police	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely

	Crown	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely
	Defence	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely
3. Judiciary/Police/Crown/Defence lawyers are sensitive to the difficulties children experience in testifying.	Judiciary	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely
	Police	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely
	Crown	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely
	Defence	1. Disagree completely 2. Disagree somewhat 3. Neither 4. Agree somewhat 5. Agree completely

General

3.1 What changes could be made to the Justice system to make it easier for young people?

A. While waiting for court (before the court day arrives)

_____

_____

_____

B. **The day of court (while waiting to testify)**

C. **The day of court (while testifying)**

D. **After testifying**

4.19 **Do you have any other suggestions or comments about children's experience in the criminal justice system?**

APPENDIX E

SAMPLE QUESTIONS FOR A JUDGE CONDUCTING AN INQUIRY INTO THE OATH

1. Could you please tell me your name?
2. How old are you?
3. When is your birthday?
4. How old will you be on your next birthday?
5. Do you go to school?
6. What grade are you in?
7. What do you like best at school?
8. What don't you like at school?
9. What is your favourite television show to watch?
10. What is your favourite food?
11. Do you have any pets?
12. Do you know why you are here today?
13. Do you know what my job is?
14. People come here to tell me things that happened or things that they saw, I would like your help?
15. When people come to court, it is very important that they tell the truth. Tell me something that is true.
16. Why is it important to tell the truth in court?
17. If I said that my robes are green, is that a truth or a lie?
18. Is it a good thing to tell the truth?
19. Is it a bad thing to tell a lie?
20. Is it better to tell the truth or better to lie?
21. If you told a lie at school and the teacher found out, what could happen?
22. Do you know what a promise is?
23. Have you ever made a promise? Have you every broken a promise?
24. Do you know what a bible is?
25. Have you ever learned about God?
26. If someone promises to do something, do you think they should do it?
27. If you made a promise to tell the truth to God, would that be a big promise or a little promise?
28. What would happen if you broke your promise?
29. What do you think might happen if people do not tell the truth in court?
30. Do you know what an oath is?
31. If you put your hand on the bible and made a promise to tell the truth, would that be a special promise?
32. What does it mean when you "swear to tell the truth"?

Sas (1999), p. 79.